

## Extra Ordinary Part - V / 1997

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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the  
*Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under  
the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE GUJARAT LEGISLATIVE ASSEMBLY MEMBERS (REMOVAL OF  
DISQUALIFICATIONS) (AMENDMENT) BILL, 1997.**

**GUJARAT BILL NO. 1 OF 1997.**

*A BILL*

*further to amend the Gujarat Legislative Assembly Members  
(Removal of Disqualifications) Act, 1960.*

It is hereby enacted in the Forty-eighth Year of the Republic of India as follows :

1. (1) This Act may be called the Gujarat Legislative Assembly Members  
(Removal of Disqualifications) (Amendment) Act, 1997.

(2) The provisions of section 2 shall be deemed to have come into force  
on the 16th November, 1996, section 3 shall be deemed to have come into force  
on the 23rd November, 1996 and section 4 shall be deemed to have come into  
force on the 20th December, 1996.



Amendment of Schedule to Guj. 1 of 1960. 2. In the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960 (hereinafter referred to as "the principal Act"), in the Schedule,—

(1) in entry 26, for the word "Chairman", the words "Chairman or Director" shall be substituted;

(2) after entry 32, the following entries shall be added, namely :—

"33. The office of Chairman or Director of the Gujarat State Financial Corporation established under the State Financial Corporations Act, 1951.

34. The office of Chairman or Director of the Gujarat Mineral Development Corporation Limited.

35. The office of Chairman or Director of the Gujarat State Seeds Corporation Limited."

Amendment of Schedule to Guj. 1 of 1960. 3. In the principal Act, in the Schedule, after entry 35 as so added, the following entry shall be added, namely :—

"36. The office of Chairman or Director of the Gujarat Agro-Industries Corporation Limited."

Amendment of Schedule to Guj. 1 of 1960. 4. In the principal Act, in the Schedule, after entry 36 as so added, the following entries shall be added, namely :—

"37. The office of Chairman or Director of the Gujarat Tractor Corporation Limited.

38. The office of Chairman or Director of the Gujarat Water Resources Development Corporation Limited.

39. The office of Chairperson or member of the Gujarat State Wakf Board established under the Wakf Act, 1995.

40. The office of Chairman or member of the Gujarat Pollution Control Board constituted under the Water (Prevention and Control of Pollution) Act, 1974."

Repeal and savings: 5. (1) The Gujarat Legislative Assembly members (Removal of Disqualifications) (Amendment) Ordinance, 1996, the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Second Amendment) Ordinance, 1996 and the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Third Amendment) Ordinance, 1996 are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinances, shall be deemed to have been done or taken under the principal Act as amended by this Act.



## STATEMENT OF OBJECTS AND REASONS.

Some of the Boards and Corporations or Limited Companies formed by the State Government require able heads experienced in the fields of trade, commerce, industry, finance, management or public life to man them efficiently. This is particularly so with regard to those bodies which deal directly with the public and social activities. Sometimes, some Members of the Gujarat Legislative Assembly are found suitable for the purpose but on account of the provision of disqualification in clause (1) of article 191 of the Constitution of India, a doubt arises whether acceptance of the post of a Chairman, Director or member of such a body by a Member of the Gujarat Legislative Assembly would disqualify him on the ground of holding an office of profit under the Government. It was, therefore, considered necessary to remove the disqualification that might be incurred by such Member on being appointed as Chairman, Director or member of such a body by amending entry 26 and by adding entries 33 to 40 in the Schedule to the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960.

As the Gujarat Legislative Assembly was not in session, the Gujarat Legislative Assembly members (Removal of Disqualifications) (Amendment) Ordinance, 1996, the Gujarat Legislative Assembly members (Removal of Disqualifications) (Second Amendment) Ordinance, 1996 and the Gujarat Legislative Assembly members (Removal of Disqualifications) (Third Amendment) Ordinance, 1996 were promulgated to amend Schedule to the said Act to achieve the aforesaid object. This Bill seeks to replace the said Ordinances by an Act of the State Legislature.

Dated the 1st February, 1997.

VITTHALBHAI SHAH.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 6th February, 1997.



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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette, The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE GUJARAT TAX ON LUXURIES (HOTELS AND LODGING HOUSES)  
(AMENDMENT) BILL, 1997.**

**GUJARAT BILL NO. 2 OF 1997.**

*A BILL*

*further to amend the Gujarat Tax on Luxuries (Hotels and  
Lodging Houses) Act, 1977.*

It is hereby enacted in the Forty-eighth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Act, 1997.

Short title  
and  
commence-  
ment.

(2) It shall be deemed to have come into force on the 18th June, 1996.

Amendment  
of section  
2 of Guj.  
24 of 1977.

2. In the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977 (hereinafter referred to as "the principal Act"), in section 2, clause (c) shall be deleted.

Guj. 24  
of 1977

Amendment  
of section  
3 of Guj.  
24 of 1977.

3. In the principal Act, in section 3, in sub-section (1), second proviso shall be deleted.

Amendment  
of section  
4 of Guj.  
24 of 1977.

4. In the principal Act, in section 4, sub-sections (3) and (4), shall be deleted.

Amendment  
of section  
5 of Guj.  
24 of 1977.

5. In the principal Act, in section 5, in sub-section (1), for the words "eight days", the words "fifteen days" shall be substituted.

Amendment  
of section  
9 of Guj.  
24 of 1977.

6. In the principal Act, in section 9, in sub-section (1), after the word and figure "section 6", the words, figures and letter "or under section 20C" shall be inserted.

Amendment  
of section  
10 of Guj.  
24 of 1977.

7. In the principal Act, in section 10,—

(1) in sub-section (1), after the words "*suo motu*", the words "or on an application made in that behalf" shall be inserted;

(2) for sub-sections (2) and (2A), the following sub-section shall be substituted, namely :—

" (2) No order shall be revised under sub-section (1) after the expiry of two years from the date of such order unless the State Government or, as the case may be, the designated officer, is satisfied that the proprietor was prevented by sufficient cause from making the application within that period.

*Explanation.*—In computing the period of limitation for the purpose of this sub-section,—

(a) any period during which the record of any proceeding has not been called for under the proviso to sub-section (1), and

(b) any period during which any proceeding under this section is stayed by an order or injunction of any civil court,

shall be excluded."



(3) in sub-section (3), for the words "the designated officer or, as the case may be, the Commissioner of Luxury Tax", the words "or, as the case may be, the designated officer" shall be substituted;

(4) in sub-section (5), for the words "Commissioner of Luxury Tax", the words "State Government or, as the case may be, the designated officer" shall be substituted.

8. In the principal Act, in section 13, in sub-section (1), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted. Amendment of section 13 of Guj. 24 of 1977

9. In the principal Act, after section 20, the following new sections shall be inserted, namely :— Insertion of new sections 20A, 20B and 20C in Guj. 24 of 1977

"20A. (1) The State Government may, by notification in the *Official Gazette*, reduce any rate of tax specified in sub-section (1) of section 3.

(2) Every notification issued under sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make, during the session in which it is so laid or the session immediately following.

(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

20B. (1) The State Government may, if it considers necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any person or persons to whom any luxury is provided by such hotel or class of hotels from payment of whole or part of the tax, subject to such conditions, as may be specified therein.

(2) Every notification issued under sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which it is so laid or the session immediately following.

(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

Power to reduce rate of tax.

Exemption.

Liability to  
pay tax in  
event of  
breach of  
conditions  
of  
exemption.

20C. (1) Where any person or persons to whom luxury is provided in a hotel or class of hotels is exempted under section 20B from whole or any part of the tax subject to any condition, then, in the event of breach of any such condition, the proprietor of such hotel shall, notwithstanding such exemption, be liable to pay tax in relation to the luxury provided in such hotel.

(2) If the Collector has reason to believe that the proprietor is liable to pay tax under sub-section (1), he shall serve on the proprietor a notice requiring him on a date and place specified therein, either to attend and produce or cause to be produced all evidence on which such proprietor relies in connection with his liability under this section or to produce such evidence as specified in the notice. On the date specified in the notice, or as soon as may be thereafter, the Collector shall, after considering all the evidence which may be produced, assess to the best of his judgement, the amount of tax so due from the proprietor."

Repeal  
and  
savings.

10. (1) The Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) (Third) Ordinance, 1996 is hereby repealed.

Gui.  
Ord.  
12 of  
1996.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

## STATEMENT OF OBJECTS AND REASONS

With a view to promoting tourism in the State of Gujarat as envisaged in the New Tourism Policy declared on the floor of the House of the Legislative Assembly on the 29th July, 1995, it was considered necessary to amend the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977.

The following notes on clauses explain the important provisions of the Bill :—

*Clauses 2 and 4.*— Under the existing provisions of sub-section (3) of section 4 of the Act, the tax is levied on full charge for the luxury provided in a hotel even though when such luxury is provided free of charge or at concessional rate. In order to promote business of hotel industries, it is proposed by these clauses to delete clause (c) of section 2 and sub-sections (3) and (4) of section 4 so as to levy tax on the actual charge of Lodging paid by the person.

*Clause 3.*—This clause proposes to delete the second proviso to sub-section (1) of section 3, which provides for exemption to certain categories of persons from payment of tax.

*Clause 5.*—Sub-section (1) of section 5 proposed to be amended by this clause provides to increase the period of furnishing monthly returns from eight days to fifteen days.

*Clause 7.*—Under the existing provisions of section 10, the power to revise the order of the Collector or the Appellate Authority is conferred concurrently on the State Government as well as the Commissioner of Luxury Tax. It is considered necessary that such power should rest only with the State Government. Therefore, section 10 is proposed to be amended to provide accordingly.

*Clause 8.*—This clause seeks to amend sub-section (1) of section 13 to provide for increasing the amount of penalty from one thousand rupees to ten thousand rupees.

*Clause 9.*—This clause proposes to insert new sections 20A, 20B and 20C in the Act.

(i) New section 20A empowers the State Government to reduce, by notification in the *Official Gazette*, the rate of tax specified in sub-section (1) of section 3.



(ii) New section 20B empowers the State Government to exempt by notification in the *Official Gazette*, in the public interest, a person to whom any luxury is provided by such hotel or class of hotels from payment of whole or part of the tax subject to such conditions, as may be specified therein.

(iii) New section 20C makes the proprietor liable to pay luxury tax in the event of the breach of conditions for such exemption.

For this purpose, a Bill called the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Bill, 1996 was introduced in the Gujarat Legislature Assembly on the 21st March, 1996 but could not be taken up for consideration by the House for want of time. Therefore, as the Gujarat Legislative Assembly was not in session at that time, the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Ordinance, 1996 was promulgated on the 18th June, 1996 to achieve the aforesaid objects. Thereafter, second Ordinance was promulgated on the 12th October, 1996 to continue the operation of the provisions of the first Ordinance. Since the second Ordinance could not be replaced by an Act of the State Legislature, the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) (Third) Ordinance, 1996 was promulgated. This Bill seeks to replace the said third Ordinance by an Act of the State Legislature.

SHANKARSINH WAGHELA.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of the legislative powers in the following respects :—

*Clause 9.*—(i) Sub-section (1) of section 20A proposed to be inserted by this clause empowers the State Government, to reduce, by notification in the *Official Gazette*, the rate of tax specified in sub-section (1) of section 3 of the Act.

(ii) Sub-section (1) of section 20B proposed to be inserted by this clause empowers the State Government to exempt, by notification in the *Official Gazette*, persons to whom any luxury is provided by such hotel or class of hotels from payment of whole or part of the tax, subject to such conditions as may be specified therein.

2. The delegation of the legislative powers as aforesaid is necessary and is of a normal character.

Dated the 3rd February, 1997.

SHANKARSINH WAGHELA.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 7th February, 1997.



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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the  
*Gujarat Government Gazette*, The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under  
 the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE GUJARAT SECONDARY EDUCATION (AMENDMENT)  
 BILL, 1997.**

**GUJARAT BILL NO. 3 OF 1997.**

**A BILL**

*further to amend the Gujarat Secondary Education Act, 1972.*

It is hereby enacted in the Forty-eighth Year of the Republic of India  
 as follows :—

Short title  
 and  
 commence-  
 ment.

1. (1) This Act may be called the Gujarat Secondary Education  
 (Amendment) Act, 1997.

(2) It shall be deemed to have come into force on the 9th August,  
 1996.



Amendment  
of section 3  
of Guj. 18  
of 1973.

2. In the Gujarat Secondary Education Act, 1972 (hereinafter referred to as "the principal Act"), in section 3, in sub-section (2), under the heading "Class B-Elected Members",-

Guj. 18 of  
1973.

(1) after clause (vi-a), the following clause shall be inserted, namely :—

"(vi-aa) three members elected by the teaching staff of registered higher secondary schools from amongst themselves.";

(2) after the first proviso, the following proviso shall be added, namely :—

"Provided further that for the purpose of clause (vi-aa), the State Government shall, by an order published in the *Official Gazette*, divide the State into three regions each having, as far as possible, an equal number of registered higher secondary schools within the areas comprised therein and the teaching staff of registered higher secondary schools in each such region shall elect one member.";

(3) in the existing third proviso, for the words "Graduate Basic Training College", the words "Graduate Basic Training College or a member of non-teaching staff of registered private secondary schools or of teaching staff of registered higher secondary schools" shall be substituted.

Repeal  
and savings.

3. (1) The Gujarat Secondary Education (Amendment) (Third) Ordinance, 1996 and the Gujarat Secondary Education (Amendment) (Third) Amending Ordinance, 1996 are hereby repealed.

Guj. Ord. 13  
of 1996.  
Guj. Ord. 18  
of 1996.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinances, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

## STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of the Gujarat Secondary Education Act, 1972, the teaching staff of registered higher Secondary Schools is not represented on the Gujarat Secondary Education Board constituted under section 3 of the said Act. It was considered necessary to have three members elected by the teaching staff of registered higher secondary schools from amongst themselves on the said Board.

As the Gujarat Legislative Assembly was not in session at that time, the Gujarat Secondary Education (Amendment) Ordinance, 1996 was promulgated on the 9th August, 1996 to achieve the aforesaid object. Thereafter, the second Ordinance was promulgated on the 12th October, 1996 to continue the operation of the provisions of the first Ordinance. Since the second Ordinance could not be replaced by an Act of the State Legislature, the Gujarat Secondary Education (Amendment) (Third) Ordinance, 1996 was promulgated.

Moreover, considering the highest number of teaching staff of the registered higher secondary schools, to have a proportionate representation of teaching staff of such schools and to have parity with the system of elections of members from amongst principals, teachers and parents association on the said Board, it was considered necessary, for the purpose of election, to make three regions each having, as far as possible, an equal number of registered higher secondary schools within the area comprising therein and the teaching staff of such schools in each such region shall elect one member. For that purpose, the Gujarat Secondary Education (Amendment) (Third) Amending Ordinance, 1996 was promulgated.

This Bill seeks to replace the Gujarat Secondary Education (Amendment) (Third) Ordinance, 1996 and the Gujarat Secondary Education (Amendment) (Third) Amending Ordinance, 1996 by an Act of the State Legislature.

SHANKARSINH WAGHELA

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative power in the following respect :—

*Clause 2.*—The second proviso proposed to be inserted in sub-section (2) of section 3 by sub-clause (2) of this clause empowers the State Government, by an order published in the *Official Gazette*, to divide the State into three regions each having, as far as possible, an equal number of registered higher secondary schools within the areas comprised therein.

2. The delegation of legislative power as proposed is necessary and is of a normal character.

Dated the 7th February, 1997.

SHANKARSINH WAGHELA

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 13th February, 1997.





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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the  
*Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under  
the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE GUJARAT CO-OPERATIVE SOCIETIES**  
**(AMENDMENT) BILL, 1997.**

**GUJARAT BILL NO. 4 OF 1997.**

*further to amend the Gujarat Co-operative Societies Act, 1961.*

It is hereby enacted in the Forty-eighth Year of the Republic of India as  
follows :—

1. (1) This Act may be called the Gujarat Co-operative Societies (Amend- Short title and  
ment) Act, 1997. commencement.

(2) It shall be deemed to have come into force on the 7th August, 1996.

Amendment of  
section 99 of  
Guj. X of 1962.

2. In the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the principal Act"), in section 99, after sub-section (3), the following new sub-sections shall be inserted, namely:—

Guj. X of  
1962.

"(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), the following disputes or class of disputes, if the plaintiff so desires, shall be decided summarily by the Registrar, or his nominee or board of nominees, in such manner as may be prescribed, namely:—

(a) any dispute for recovery of debt upon promissory note, *hundi*, bill of exchange or bond, with or without interest, whether agreed upon under such instrument or under the bye-laws;

(b) any dispute for recovery of a fixed sum of money or in the nature of debt, with or without interest, arising on a written contract;

(c) any dispute for recovery of price of goods sold and delivered, where the rate, quality and quantity are admitted in writing;

(d) any dispute for recovery of dues payable by a member of a housing society towards contribution for construction of the house, or any dispute in respect of repayment of any loan, interest on loan, ground rent, local authority taxes, sinking fund, water charges, electrical charges, maintenance and upkeep charges or charges for other services rendered by the society and the interest on such arrears, payable under the written agreement or under the bye-laws.

(5) (a) The defendant shall not be entitled to defend the dispute unless he obtains leave from the Registrar, his nominee or, as the case may be, board of nominees, in such manner as may be prescribed.

(b) The Registrar, his nominee or board of nominees may grant the leave under clause (a) on such conditions, as he or it thinks fit.

(c) The Registrar, his nominee or board of nominees shall not refuse the leave to defend the dispute unless he or it satisfies that the facts disclosed by the defendant do not indicate that he has substantial defence to raise or that the defence intended to be put up by him is frivolous or vexatious.

(d) Where the defendant fails to obtain such leave or fails to appear or defend the dispute in pursuance of such leave, the averments made in the plaint and documents produced therewith shall be deemed to have been admitted by the defendant.

Provided that the Registrar, his nominee or board of nominees in his or its discretion may require any fact so admitted to be proved otherwise than by such admission.

(e) Where the conditions on which leave to defend is granted are not complied with by the defendant, the Registrar, his nominee or, as the case may be, board of nominees may pass an award against him, as if he has not been granted such leave.

(6) The Registrar, his nominee or, as the case may be, board of nominees may under special circumstances set aside the award passed by him or it and if necessary, stay or set aside the execution, and may grant leave to the defendant to appear and defend the disputes, if it seems reasonable so to do, and on such terms as he or it thinks fit."

Repeal and  
savings.

3. (1) The Gujarat Co-operative Societies (Amendment) (Third) Ordinance, 1996 is hereby repealed. Guj. Ord. 16  
of 1996.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

### STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of section 99 of the Gujarat Co-operative Societies Act, 1961, the Registrar, his nominee or board of nominees has been empowered to decide the disputes referred to him under section 98 of the Act. Certain types of disputes are based on documentary evidence which hardly require proof or which have little scope for defence, such as money suits of a Co-operative Bank or Housing Society, etc. In absence of any provision regarding summary procedure in the Act, even such type of disputes are decided after following the detailed procedure. In order to safeguard the public money and speedy recovery thereof, to give justice timely to the people and to have quick disposal of pending disputes, it was considered necessary to empower the Registrar, his nominee or the board of nominees to decide such disputes summarily.

As the Gujarat Legislative Assembly was not in session at that time, the Gujarat Co-operative Societies (Amendment) Ordinance, 1996 was promulgated on the 7th August, 1996 to achieve the aforesaid object. Thereafter, second Ordinance was promulgated on the 12th October, 1996 to continue the operation of the provisions of the first Ordinance. Since the second Ordinance could not be replaced by an Act of the State Legislature, the Gujarat Co-operative Societies (Amendment) (Third) Ordinance, 1996 was promulgated. This Bill seeks to replace the said third Ordinance by an Act of the State Legislature.

VITTHALBHAI RADADIYA.



## MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:—

*Clause 2.—(i)* Sub-section (4) proposed to be inserted in section 99 by this clause empowers the State Government to prescribe by rules the manner in which the Registrar, or his nominee or board of nominees shall decide the dispute summarily.

*(ii)* Clause (a) of sub-section (5) proposed to be inserted in section 99 by this clause empowers the State Government to prescribe by rules the manner in which leave may be obtained by the defendant from the Registrar, his nominee or board of nominees.

The delegation of legislative powers, as aforesaid, is necessary and is of a normal character.

Dated the 11th February, 1997.

VITTHALBHAI RADADIYA.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 13th February, 1997.

Extra No. 5



सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

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VOL. XXXVIII] SATURDAY, FEBRUARY 15, 1997 / MAGHA 26, 1918.

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

### PART V

#### Bills introduced in the Gujarat Legislative Assembly.

To be translated in to Gujarati and the translation to be published in the *Gujarat Government Gazette*, The date of publication to be reported).

The following Bill is published with the consent of the Speaker, given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules.—

#### THE GUJARAT SALES TAX (VALIDATION) BILL, 1997.

#### GUJARAT BILL NO. 5 OF 1997.

#### A BILL

to validate the levy and collection of tax on milk powder under the Gujarat Sales Tax Act, 1969.

It is hereby enacted in the Forty-eighth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Sales Tax (Validation) Act, 1997. Short title and commencement.

(2) It shall be deemed to have come into force on the 11th January, 1997.

Guj. 1 of 1970.

2. In this Act, unless the context otherwise requires—

Definitions.

(a) "the Act" means the Gujarat Sales Tax Act, 1969;

(b) the expressions "dealer" and "tax" shall have the meanings as respectively assigned to them in clauses (10) and (32) of section 2 of the Act.

3. (1) Notwithstanding any judgement, decree or order of any court, tribunal or authority to the contrary—

Validation of levy and collection of tax on milk powder under the Act.

(a) in sub-entry (i) of entry 10 of Schedule I to the Gujarat Sales Tax Act, 1969, as in force before the date of the commencement of the Gujarat Sales Tax (Second Amendment) Act, 1992 (hereinafter referred to as "the said date"), the words "except milk powder" shall be and shall be deemed always to have been added at the end and formed part of the said sub-entry (i) before the said date; Guj. 1 of 1970.  
Guj. 9 of 1992.

(b) a tax on milk powder levied, assessed, re-assessed or collected or purported to have been levied, assessed, re-assessed or collected under the Act before the said date shall be and shall be deemed always to have been validly levied, assessed, re-assessed or collected in accordance with law, as if the said sub-entry (i) of entry 10 as so construed had been in force at all material times when the said tax was levied, assessed, re-assessed or collected, and accordingly—

(i) no suit, appeal, application or other proceeding shall be maintained or continued in any court or before any tribunal or authority whatsoever for the refund of the said tax,

(ii) no court, tribunal or other authority shall enforce any decree or order directing refund of the said tax,

(iii) recoveries shall be made in accordance with the provisions of the Act, of all amounts collected by dealers by way of such tax under the Act, as if, the said sub-entry (i) of entry 10 as so construed had been in force at all material times.

(2) For the removal of doubt, it is hereby declared that—

(a) nothing in sub-section (1) shall be construed as preventing any person—

(i) from questioning, in accordance with the provisions of the Act, the levy, assessment, re-assessment or collection of the aforesaid tax as so validated under sub-section (1), or

(ii) from claiming, in accordance with the provisions of the Act, refund of the aforesaid tax as so validated under sub-section (1) and paid by him in excess of the amount due from him,

(b) no act or omission on the part of any person before the said date, shall be punishable as an offence which would not have been so punishable if this Act had not come into force.

Repeal and savings:

4. (1) The Gujarat Sales Tax (Validation) Ordinance, 1997 is hereby repealed. Guj. Ord. 1 of 1997.

(2) Notwithstanding such repeal, anything done or any action taken under the Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the Act, as amended by this Act.

## STATEMENT OF OBJECTS AND REASONS

Since the inception of the Gujarat Sales Tax Act, 1969 sales tax was levied and collected on milk powder. The High Court of Gujarat in the case of *Chunilal Mayachand Vs. State of Gujarat* (1992 (86) STC 105) interpreted the entry relating to 'milk, whole or separated or reconstituted' as appearing in sub-entry (i) of entry 10 of Schedule I to the Act as it existed prior to the 1st April, 1992. In the context of the said judgement, a doubt has arisen as to whether 'milk powder' was exigible to tax and levy of tax thereon was validly made or not. In order to remove any such doubt and to make the intention of the Legislature clear, the 'milk powder' is excluded from the expression 'milk, whole or separated or reconstituted' appearing in the said sub-entry (i) of entry 10 as it existed prior to the 1st April, 1992 and the levy and collection of tax thereon is validated. As the Gujarat Legislative Assembly was not in session, the Gujarat Sales Tax (Validation) Ordinance, 1997 was promulgated to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Gandhinagar,  
Dated the 12th February, 1997.

BABUBHAI MEGHJI SHAH

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 15th February, 1997.





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**EXTRAORDINARY**

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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE BOMBAY LAND REVENUE (GUJARAT AMENDMENT) BILL, 1997.**

**GUJARAT BILL NO. 6 OF 1997.**

**A BILL**

*further to amend the Bombay Land Revenue Code, 1879.*

It is hereby enacted in the Forty-eighth Year of the Republic of India as follows :—

Short title and commencement.

1. (1) This Act may be called the Bombay Land Revenue (Gujarat Amendment) Act, 1997.

(2) It shall be deemed to have come into force on the 24th December, 1996.

Amendment of section 48 of Bom. V of 1879.

2. In the Bombay Land Revenue Code, 1879 (hereinafter referred to as "the principal Act"), in section 48, after sub-section (2), the following new sub-section shall be inserted, namely :—

Bom. V of 1879.

"(2A) Where any land assessed for any purpose is used for a *bonafide* industrial purpose under section 65B and a certificate to that effect is issued to the occupant of such land under that section, the assessment fixed under the provisions of this Act upon such land shall, notwithstanding that the term for which such assessment may have been fixed has not expired, be liable to be altered and fixed at a different rate with effect from the commencement of the revenue year in which the use of land for a *bonafide* industrial purpose is commenced, by such authority and subject to such rules as the State Government may prescribe in this behalf."

Inclusion of new  
section in  
Bom. V  
of 1879.

3. In the principal Act, after section 65A, the following new section shall be inserted, namely:—

Use of certain  
lands for *bona-  
fide* industrial  
purpose.

"65B. (1) Notwithstanding anything contained in section 65 or 65A, where—

(a) any land used or held for the purpose of agriculture or, as the case may be, for any non-agricultural purpose not being an industrial purpose is,—

(i) designated for the use of industrial purpose in the draft or final development plan or draft or final town planning scheme under the Gujarat Town Planning and Urban Development Act, 1976; or

President's Act  
No. 27 of 1976.

(ii) situated in the area where no plan or scheme referred to in sub-clause (i) is in force and is designated by the State Government, by notification in the *Official Gazette*, for the use of such industrial purpose as may be specified therein, having regard to such factors as may be prescribed by rules made under this Act in this behalf:

Provided that nothing in this sub-clause shall render invalid the use of land for a *bonafide* industrial purpose in pursuance of the provisions of the Bombay Land Revenue (Gujarat Amendment) (Second) Ordinance, 1996 during the period when the said Ordinance was in force notwithstanding that the said land is not designated for such use under this Act, and

Guj. Ord. 20  
of 1996.

(b) the occupant of such land wishes to use such land or part thereof—

(I) for a *bonafide* industrial purpose other than the purpose of manufacture or storage of any chemical or petrochemical,

it shall be lawful for him to use such land for such *bonafide* industrial purpose without the permission of the Collector subject to the fulfilment of the following conditions, namely:—

- (a) the occupant has a clear title to such land,
- (b) such land or part thereof,—

(i) is not shown as reserved for a public purpose in draft or final development plan or draft or final town planning scheme under the Gujarat Town Planning and Urban Development Act, 1976,

President's Act  
No. 27 of 1976.

1 of 1894.

(ii) is not notified for acquisition under the Land Acquisition Act, 1894 or any other law for the time being in force,

(iii) does not fall within the alignment of any road plan prepared by the State Government or the command area of any irrigation project,

(iv) is not situated within thirty metres from the boundary of any land held for the purpose of railway by the Central Government or the Indian Railway Company Ltd., or

(v) is not situated within fifteen metres of the high voltage transmission line;

(vi) is not situated within five kilometres of the periphery of the area within the jurisdiction of any Area Development Authority or Urban Development Authority constituted under the Gujarat Town Planning and Urban Development Act, 1976 :

President's Act No. 27 of 1976.

Provided that nothing in this item shall render invalid the use of land for a *bonafide* industrial purpose in pursuance of the provisions of the Bombay Land Revenue (Gujarat Amendment) (Second) Ordinance, 1996 when the said Ordinance was in force notwithstanding that the said land falls within five kilometres of the periphery of the area within the jurisdiction of any Area Development Authority or Urban Development Authority.

Guj. Ord. 20 of 1996.

(II) for the purpose of manufacture or storage of any chemical or petrochemical,

it shall be lawful for him to use such land for such *bonafide* industrial purpose without the permission of the Collector subject to the fulfilment of the following conditions, in addition to the conditions mentioned in sub-clause (I), namely :—

such land or part thereof is not situated within two kilometres from the boundary of—

(i) an ancient monument declared as 'protected monument' under sub-section (1) of section 3 of the Ancient Monuments Preservation Act, 1904;

7 of 1904.

(ii) an ancient and historical monument declared as 'protected monument' under sub-section (3) of section 4 of the Gujarat Ancient Monuments and Archaeological Sites and Remains Act, 1965;

Guj. 25 of 1965.

(iii) a forest land or waste land declared as 'reserved forest land' under section 3 of the Indian Forest Act, 1927;

XVI of 1927.

(iv) a forest land or waste land known as 'protected forest' under section 29 of the Indian Forest Act, 1927;

XVI of 1927.

(v) an area declared as 'sanctuary' under sub-section (1) of section 18 of the Wild Life (Protection) Act, 1972; or

53 of 1972.

(vi) an area declared as 'national park' under section 35 of the Wild Life (Protection) Act, 1972.

53 of 1972.



(2)(a) The occupant shall comply with the provisions of any law for the time being in force or any order or direction of the Central Government or State Government or any Corporation owned or controlled by such Government, Government Company, local authority in relation to use of land for a *bonafide* industrial purpose under sub-section (1) before the land is put to use for such purpose.

(b) Where an occupant commences the use of the land for a *bonafide* industrial purpose under sub-section (1), he shall within thirty days from the date of commencement of the use of land for a *bonafide* industrial purpose, send a notice of the date of commencement of such use, alongwith other particulars in such form as may be prescribed by rules made under this Act, to the Collector and endorse a copy thereof to the Mamlatdar.

(3) Where, on the receipt of such notice alongwith other particulars sent by the occupant under clause (b) of sub-section (2), the Collector, after making such inquiry as he deems fit—

(a) is satisfied that the occupant of such land has validly commenced the use of the land for a *bonafide* industrial purpose under sub-section (1), he shall issue a certificate to that effect to the occupant in such form and within such period as may be prescribed by rules made under this Act,

(b) is not so satisfied, he shall, after giving the occupant an opportunity of being heard, refuse to issue such certificate.

Provided that no such certificate shall be issued under clause (a) unless the conversion tax leviable under section 67A is paid.

(4)(a) Where the occupant fails to send the notice and other particulars under clause (b) of sub-section (2) within the period specified therein, he shall be liable to pay, in addition to the non-agricultural assessment leviable under this Act, such fine not exceeding ten thousand rupees as the Collector may, subject to rules made under this Act, direct.

(b)(i) Where the occupant commences the use of such land for industrial purpose despite the non-fulfilment of any of the conditions specified in sub-section (1), or

(ii) where certificate is refused to the occupant under clause (b) of sub-section (3),

he shall be liable, in addition to the payment of non-agricultural assessment leviable under this Act, to restore such land to its original use within such period as the Collector may specify in a notice served on such occupant in this behalf.

(c) Where such occupant does not restore the land to its original use within the period specified by the Collector in the notice served under clause (b),—



(i) he shall be liable to pay such fine not exceeding five thousand rupees and in addition, such daily fine not exceeding one hundred rupees per hectare or part thereof of land not so restored for each day during which such land is not restored to its original use, after the expiry of the period specified in such notice as the Collector may, subject to rules made under this Act, direct, and

(ii) the Collector shall take such steps as he thinks fit to get such land restored to its original use and collect the cost incurred in this behalf from such occupant as an arrear of land revenue.

(5)(a) The occupant shall commence industrial activity on such land within three years from the date of the notice sent by him to the Collector under clause (b) of sub-section (2) and commence production of goods or providing of services on such land within five years from such date :

Provided that the period of three years or, as the case may be, five years may, on an application made by the occupant in that behalf, be extended from time to time by the Collector in such circumstances as may be prescribed by rules made under this Act.

(b) Where the occupant fails to commence industrial activity or production of goods or providing of services within the period specified in clause (a) or the period extended under the proviso to clause (a), he shall be liable to pay, in addition to non-agricultural assessment leviable under section 48, non-agricultural assessment at the rate of five rupees per square metre of the land with effect from the date of expiry of the period of three years or five years or, as the case may be, the period extended under the proviso to clause (a) till he commences industrial activity or, as the case may be, commences production of goods or providing of services.

*Explanation I.*—For the purposes of this section, section 48 and section 67A, the expression "*bonafide* industrial purpose" means an activity of manufacture, preservation or processing of goods, (other than the hazardous and toxic chemicals specified in Part II of the Schedule I to the Manufacture, Storages and Import of Hazardous Chemicals Rules, 1989 made under the Environment (Protection) Act, 1986 and for 29 of 1986. the time being in force) or any handicraft, or industrial business or enterprise, carried on by any person and includes construction of industrial buildings used for the manufacturing process or purpose, or power projects or port projects and ancillary industrial usage like research and development, godown, canteen, office building of the industry concerned, or providing housing accommodation to the workers of the industry concerned, or establishment of industrial estate including a co-operative estate or service industry or tourism or cottage industry.

*Explanation II.*—For the purposes of this section, an occupant shall be deemed to have commenced the use of land for a *bonafide* industrial purpose from the date on which he ceases to use the land for agricultural or non-agricultural purpose existing immediately before the date of such cesser."



Amendment of  
section 67A of  
Bom. V of  
1879.

4. In the principal Act, in section 67A,—

(1) in sub-section (1),—

(a) in clause (b), for the words "in that section", the words "in that section, or" shall be substituted;

(b) after clause (b), the following clause shall be added, namely :—

"(c) is used for a *bonafide* industrial purpose under section 65B,";

(2) in sub-section (2), in the proviso, for the words "under this sub-section", the words, brackets, figure and letter "under this sub-section or under sub-section (2A)" shall be substituted;

(3) after sub-section (2) but before the proviso, the following new sub-section shall be inserted, namely :—

"(2A) Where any land assessed or held for any non- agricultural purpose not being an industrial purpose (hereinafter referred to as "the existing non-agricultural purpose") and situated in a specified area is used for a *bonafide* industrial purpose under section 65B, the occupant of such land shall be liable to pay to the State Government a tax at such rate as is equivalent to the difference between the rate of tax applicable to the industrial purpose specified in the corresponding entry in column (6) of the Table below and the rate of tax applicable to the existing non-agricultural purpose specified in columns (3), (4) and (5) of the Table below."

Amendment of  
section 214 of  
Bom. V of  
1879.

5. In the principal Act, in section 214, in sub-section (2), clause (h) shall be renumbered as clause (gi) and after clause (gi) as so renumbered, the following clause shall be inserted, namely :—

"(h) the form of notice and the particulars to be sent under clause (b) of sub-section (2), the form of and the time within which a certificate is to be issued under sub-section (3), the rules subject to which the Collector may direct payment of fine under clauses (a) and (c) and the form of notice to be served under clause (b) of sub-section (4), and the circumstances in which the period may be extended under the proviso to clause (a) of sub-section (5), of section 65B."

Repeal  
and savings.

6. (1) The Bombay Land Revenue (Gujarat Amendment) (Second) Ordinance, 1996 is hereby repealed.

Guj.  
Ord. 20  
of 1996.

(2) Notwithstanding such repeal, any thing done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

### STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of sections 65 and 65A of the Bombay Land Revenue Code, 1879, permission of the Collector is required for change of use of the land from agricultural to non-agricultural or from one non-agricultural to another non-agricultural



use. A new section 65B is sought to be inserted in the Code allowing the occupant to change the use of land from agricultural or, as the case may be, non-agricultural to a *bonafide* industrial purpose so that the land can be immediately used for that purpose in the cases where the land is designated for use of industrial purpose in the draft or final development plan or in the draft or final town planning scheme or where the land is situated in the area where no such plan or scheme exists and is designated by the State Government for the use of specified industrial purpose. However, before the use of land is changed from agricultural or non-agricultural to a *bonafide* industrial purpose other than the purpose of manufacture or storage of chemical or petrochemical, the occupant is required to comply with certain conditions. These conditions are that the land or part thereof is not reserved for any public purpose under the draft or final development plan or draft or final town planning scheme; it is not notified for acquisition under the Land Acquisition Act, 1894; it does not fall within the alignment of any road plan or the Command Area of any irrigation project or within thirty metres of any railway line or within fifteen metres of high voltage transmission line or within five kilometres of the periphery of the area within the jurisdiction of any Development Authority, etc. Where the occupant wishes to use such land for the purpose of manufacture or storage of any chemical or petrochemical industry, he is required to fulfil additional conditions that such land or part thereof is not situated within two kilometres from the boundary of the 'protected monument', 'reserved forest', 'protected forest', 'sanctuary' or 'national park' declared as such under the relevant laws. In order to prevent the change of use of land in contravention of the conditions as mentioned above, provisions are proposed requiring the occupant who uses the land for a *bonafide* industrial purpose to send a notice of such use to the Collector within specified time and to obtain a certificate from the Collector certifying that the land is used by the occupant validly, and in a case, where the conditions are contravened or the certificate is refused, the occupant is required to restore the land to its original use and in addition to pay non-agricultural assessment. The expression '*bonafide* industrial purpose' is defined and while so defining, the activities of the manufacture, preservation and processing of hazardous and toxic chemicals specified in the rules made under the Environment (Protection) Act, 1986 are excluded. Certain consequential amendments in sections 48, 67A and 214 of the Code are also proposed.

For this purpose, a Bill called the Bombay Land Revenue Code (Gujarat Amendment) Bill, 1996 was introduced in the Gujarat Legislative Assembly on the 25th March, 1996 but could not be taken up for consideration by the House for want of time. As the Gujarat Legislative Assembly was not in session at that time, the Bombay Land Revenue Code (Gujarat Amendment) Ordinance, 1996 was promulgated on the 26th June, 1996 to amend the said Code to achieve the aforesaid objects. The said Ordinance has ceased to operate after the 14th October, 1996. Thereafter, the Bombay Land Revenue (Gujarat Amendment) (Second) Ordinance, 1996 was promulgated. This Bill seeks to replace the said second Ordinance by an Act of the State Legislature.

ATMARAM PATEL

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects :—

*Clause 2.*— Sub-section (2A) proposed to be inserted in section 48 by this clause empowers the State Government to prescribe by rules the authority by which and the rules subject to which the assessment of land revenue fixed under the Act shall be altered and fixed at a different rate.

*Clause 3.*— This clause proposes to insert new section 65B.

(i) Para (ii) of clause (a) of sub-section (1) of section 65B empowers the State Government to designate, by notification in the *Official Gazette*, the areas for the use of industrial purpose, and empowers the State Government to prescribe by rules, the factors for designating any such area for the use of industrial purpose.

(ii) Clause (b) of sub-section (2) of section 65B empowers the State Government to prescribe by rules the form of notice of the date of the commencement of use of land for a *bonafide* industrial purpose alongwith the particulars to be sent to the Collector.

(iii) Clause (a) of sub-section (3) of section 65B empowers the State Government to prescribe by rules the form in which and the period within which the Collector shall issue a certificate as specified therein.

(iv) Clauses (a) and (c) of sub-section (4) of the section 65B empowers the State Government to prescribe the rules subject to which the Collector may direct the payment of such fine not exceeding that specified under these clauses.

(v) The proviso to clause (a) of sub-section (5) of the section 65B empowers the State Government to prescribe by rules the circumstances in which the Collector may extend the period of three years or five years referred to in said clause (a) of sub-section (5).

*Clause 5.*— Clause (h) which is sought to be inserted in sub-section (2) of section 214 by this clause empowers the State Government to make rules in respect of matters specified in said clause (h).

2. The delegation of legislative powers as proposed is necessary and is of a normal character.

Dated the 14th February, 1997.

ATMARAM PATEL

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,

Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 15th February, 1997.





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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated in to Gujarati and the translation to be published in the Gujarat Government Gazette, The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules.—

**THE GUJARAT TENANCY AND AGRICULTURAL LANDS LAWS  
(AMENDMENT) BILL, 1997.**

**GUJARAT BILL NO. 7 OF 1997.**

**A BILL**

*further to amend the Bombay Tenancy and Agricultural Lands Act, 1948, the Saurashtra  
Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949  
and the Bombay Tenancy and Agricultural Lands  
(Vidarbha Region and Kutch Area) Act, 1958.*

It is hereby enacted in the Forty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Act, 1997.

Short title and  
commence-  
ment.

(2) It shall be deemed to have come into force on the 24th December, 1996.

Bom.  
LXVII  
of 1948.

2. In the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as "the Bombay Tenancy and Agricultural Lands Act"), in section 43, —

Amendment of  
section 43 of  
Bom. LXVII of  
1948.

(1) after sub-section (1B), the following new sub-section shall be inserted, namely :—

"(1C) The land to which sub-section (1) applies and for which no permission is required under sub-section (1) of section 65B of the Bombay Land Revenue Code, 1879 for use of such land for a *bonafide* industrial purpose may, notwithstanding anything contained in sub-section (1) of this section, be sold without the previous sanction of the Collector under sub-section (1) but subject to payment of such amount as may be determined by the State Government under sub-section (1).";

(2) in sub-section (2), after the words, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or sub-section (1C)" shall be inserted.

Insertion of new section in Bom. LXVII of 1948.

3. In the Bombay Tenancy and Agricultural Lands Act, after section 63A, the following new section shall be inserted, namely :—

Sale of land for *bonafide* industrial purpose permitted in certain cases.

"63AA. (1) Nothing in section 63 shall prohibit the sale or the agreement for the sale of land for which no permission is required under sub-section (1) of section 65B of the Bombay Land Revenue Code, 1879 in favour of any person for use of such land by such person for a *bonafide* industrial purpose :

Provided that—

(a) the land is not situated within the urban agglomeration as defined in clause (n) of section 2 of the Urban Land (Ceiling and Regulation) Act, 1976,

(b) where the area of the land proposed to be sold exceeds ten hectares, the person to whom the land is proposed to be sold in pursuance of this sub-section shall obtain previous permission of the Industries Commissioner, Gujarat State or such other officer, as the State Government may, by an order in writing, authorise in this behalf,

(c) the area of the land proposed to be sold shall not exceed four times the area on which construction for a *bonafide* industrial purpose is proposed to be made by the purchaser:

Provided that any additional land which may be required for pollution control measures or required under any relevant law for the time being in force and certified as such by the relevant authority under that law shall not be taken into account for the purpose of computing four times the area,

(d) where the land proposed to be sold is owned by a person belonging to the Scheduled Tribe, the sale shall be subject to the provisions of section 73AA of the Bombay Land Revenue Code, 1879.

(2) Nothing in section 63A shall apply to any sale made in pursuance of sub-section (1).

(3) (a) Where the land is sold to a person in pursuance of sub-section (1) (hereinafter referred to as "the purchaser"), he shall within thirty days from the date of the purchase of the land for a *bonafide* industrial purpose, send a notice of such purchase in such form along with such other particulars as may be prescribed, to the Collector and endorse a copy thereof to the Mamlatdar.

(b) Where the purchaser fails to send the notice and other particulars to the Collector under clause (a) within the period specified therein, he shall be liable to pay, in addition to the non-agricultural assessment leviable under this Act, such fine not exceeding two thousand rupees as the Collector may, subject to rules made under this Act, direct.

(c) Where, on receipt of the notice of the date of purchase for the use of land for a *bonafide* industrial purpose and other particulars sent by the purchaser under clause (a), the Collector, after making such inquiry as he deems fit—

(i) is satisfied that the purchaser of such land has validly purchased the land for a *bonafide* industrial purpose in conformity with the provisions of sub-section (1), he shall issue a certificate to that effect to the purchaser in such form and within such time as may be prescribed,

(ii) is not so satisfied, he shall, after giving the purchaser an opportunity of being heard, refuse to issue such certificate and on such refusal, the sale of land to the purchaser shall be deemed to be in contravention of section 63.

(d)(i) The purchaser aggrieved by the refusal to issue a certificate by the Collector under sub-clause (ii) of clause (c) may file an appeal to the State Government or such officer, as it may, by an order in writing, authorise in this behalf.

(ii) The State Government or the authorised officer shall, after giving the appellant an opportunity of being heard, pass such order on the appeal as it or he deems fit.

(4) (a) The purchaser shall comply with the provisions of any law for the time being in force or any order or direction of the Central Government or State Government or any Corporation owned or controlled by such Government, Government Company, local authority or statutory authority in relation to use of land for industrial purpose before the land is put to use for such purpose.

(b) The purchaser to whom a certificate is issued under sub-clause (i) of clause (c) of sub-section (3) shall commence industrial activity on such land within three years from the date of such certificate and commence production of goods or providing of services within five years from such date :

Provided that the period of three years or, as the case may be, five years may, on an application made by the purchaser in that behalf, be extended from time to time, by the State Government or such officer, as it may, by an order in writing, authorise in this behalf, in such circumstances as may be prescribed.

(5) Where the Collector, after making such inquiry as he deems fit and giving the purchaser an opportunity of being heard, comes to a conclusion that the purchaser has failed to commence industrial activity or production of goods or providing of services within the period specified in clause (b) of sub-section (4), or the period extended under the proviso to that clause, the land shall vest in the State Government free from all encumbrances on payment to the purchaser of such compensation as the Collector may determine, having regard to the price paid by the purchaser and such land shall be disposed of by the State Government, having regard to the use of land."



Amendment of  
section 82  
of Bom. LXVII  
of 1948.

4. In the Bombay Tenancy and Agricultural Lands Act, in section 82, in sub-section (2), after clause (ka), the following new clause shall be inserted, namely :—

"(kaa) the form of notice and particulars to be sent under clause (a), the rules subject to which the Collector may direct the payment of fine under clause (b), the form of and the time within which a certificate is to be issued under sub-clause (i) of clause (c), of sub-section (3) and the circumstances in which the period may be extended under the proviso to clause (b) of sub-section (4), of section 63AA;"

Insertion of new  
section in Sau.  
Ord. XLI of  
1949.

5. In the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, Sau. Ord. XLI of 1949 (hereinafter referred to as "the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance"), after section 54, the following new section shall be inserted, namely :—

Sale of land for  
bonafide in-  
dustrial purpose  
permitted in cer-  
tain cases

55. (1) Nothing in section 54 shall prohibit the sale or the agreement for the sale of land for which no permission is required under sub-section (1) of section 65B of the Bombay Land Revenue Code, 1879 in favour of any person for use of such land by such person for a *bonafide* industrial purpose :

Bom. V of  
1879.

Provided that—

(a) the land is not situated within the urban agglomeration as defined in clause (n) of section 2 of the Urban Land (Ceiling and Regulation) Act, 1976. 23 of 1976.

(b) where the area of the land proposed to be sold exceeds ten hectares, the person to whom the land is proposed to be sold in pursuance of this sub-section shall obtain previous permission of the Industries Commissioner, Gujarat State or such other officer, as the State Government may, by an order in writing, authorise in this behalf,

(c) the area of land proposed to be sold shall not exceed four times the area on which construction for a *bonafide* industrial purpose is proposed to be made by the purchaser:

Provided that any additional land which may be required for pollution control measures or required under any relevant law for the time being in force and certified as such by the relevant authority under that law shall not be taken into account for the purpose of computing four times the area,

(d) where the land proposed to be sold is owned by a person belonging to the Scheduled Tribe, the sale shall be subject to the provisions of section 73AA of the Bombay Land Revenue Code, 1879. Bom. V of 1879.

(2) (a) Where the land is sold to a person in pursuance of sub-section (1) (hereinafter referred to as "the purchaser"), he shall within thirty days from the date of the purchase of the land for a *bonafide* industrial purpose, send a notice of such purchase in such form along with such other particulars as may be prescribed, to the Collector and endorse a copy thereof to the Mamlatdar.

(b) Where the purchaser fails to send the notice and other particulars to the Collector under clause (a) within the period specified therein, he shall be liable to pay, in addition to the non-agricultural assessment leviable under this Ordinance, such fine not exceeding two thousand rupees as the Collector may, subject to rules made under this Ordinance, direct.



(c) Where, on receipt of the notice of the date of purchase for the use of land for a *bonafide* industrial purpose and other particulars sent by the purchaser under clause (a), the Collector, after making such inquiry as he deems fit—

(i) is satisfied that the purchaser of such land has validly purchased the land for a *bonafide* industrial purpose in conformity with the provisions of sub-section (1), he shall issue a certificate to that effect to the purchaser in such form and within such time as may be prescribed,

(ii) is not so satisfied, he shall, after giving the purchaser an opportunity of being heard, refuse to issue such certificate and on such refusal, the sale of land to the purchaser shall be deemed to be in contravention of section 54.

(d) (i) The purchaser aggrieved by the refusal to issue a certificate by the Collector under sub-clause (ii) of clause (c) may file an appeal to the State Government or such officer, as it may, by an order in writing, authorise in this behalf.

(ii). The State Government or the authorised officer shall, after giving the appellant an opportunity of being heard, pass such order on the appeal as it or he deems fit.

(3)(a) The purchaser shall comply with the provisions of any law for the time being in force or any order or direction of the Central Government or State Government or any Corporation owned or controlled by such Government, Government Company, local authority or statutory authority in relation to use of land for industrial purpose before the land is put to use for such purpose.

(b) The purchaser to whom a certificate is issued under sub-clause (i) of clause (c) of sub-section (2) shall commence industrial activity on such land within three years from the date of certificate and commence production of goods or providing of services within five years from such date :

Provided that the period of three years or, as the case may be, five years may, on an application made by the purchaser in that behalf, be extended from time to time, by the State Government or such officer, as it may, by an order in writing, authorise in this behalf, in such circumstances as may be prescribed.

(4) Where the Collector, after making such inquiry as he deems fit and giving the purchaser an opportunity of being heard, comes to a conclusion that the purchaser has failed to commence industrial activity or production of goods or providing of services within the period specified in clause (b) of sub-section (3), or the period extended under the proviso to that clause, the land shall vest in the State Government free from all encumbrances on payment to the purchaser of such compensation as the Collector may determine, having regard to the price paid by the purchaser and such land shall be disposed of by the State Government, having regard to the use of land."

6. In the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, in section 73, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely :—

Amendment of section 73 of Sau. Ord. XLI of 1949.

"(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for the following matters :—

- (a) the manner of determining debts and liabilities under section 43;
- (b) the manner of notifying liquidation scheme sanctioned under section 47;
- (c) the conditions subject to which permission to acquire land or interest therein may be granted under section 54;
- (d) the form of notice and particulars to be sent under clause (a), the rules subject to which the Collector may direct the payment of fine under clause (b), the form of and the time within which a certificate is to be issued under sub-clause (i) of clause (c), of sub-section (2) and the circumstances in which the period may be extended under the proviso to clause (b) of sub-section (3), of section 55; and
- (e) any other matter which is to be or may be prescribed under this Ordinance.

(3) Rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

(4) All rules made under this section shall be laid before the State Legislature as soon as may be after they are made and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any modifications so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

Amendment of section 57 of Bom. XCIX of 1958.

7. In the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958. (hereinafter referred to as "the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act"), in section 57,—

Bom. XCIX of 1958.

(1) after sub-section (1), the following new sub-section shall be inserted, namely:—

"(1A) The land to which sub-section (1) applies and for which no permission is required under sub-section (1) of section 65B of the Bombay Land Revenue Code, 1879 for use of such land for a *bonafide* industrial purpose may, notwithstanding anything contained in sub-section (1) of this section, be sold without the previous sanction of the Collector under sub-section (1)."

Bom. V of 1879.

(2) in sub-section (2), after the words, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or sub-section (1A)" shall be inserted.

Insertion of new section in Bom. XCIX of 1958.

8. In the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, after section 89, the following new section shall be inserted, namely:—

Sale of land for *bonafide* industrial purpose permitted in certain cases.

"89A. (1) Nothing in section 89 shall prohibit the sale or the agreement for the sale of land for which no permission is required under sub-section (1) of section 65B of the Bombay Land Revenue Code, 1879 in favour of any person for use of such land by such person for a *bonafide* industrial purpose:

Bom. V of 1879.

Provided that—

(a) the land is not situated within the urban agglomeration as defined in clause (n) of section 2 of the Urban Land (Ceiling and Regulation) Act, 1976,

33 of 1976.

(b) where the area of the land proposed to be sold exceeds ten hectares, the person to whom the land is proposed to be sold in pursuance of this sub-section shall obtain previous permission of the Industries Commissioner, Gujarat State, or such other officer, as the State Government may, by an order in writing, authorise in this behalf,

(c) the area of the land proposed to be sold shall not exceed four times the area on which construction for a *bonafide* industrial purpose is proposed to be made by the purchaser :

Provided that any additional land which may be required for pollution control measures or required under any relevant law for the time being in force and certified as such by the relevant authority under that law shall not be taken into account for the purpose of computing four times the area,

(d) where the land proposed to be sold is owned by a person belonging to the Scheduled Tribe, the sale shall be subject to the provisions of section 73AA of the Bombay Land Revenue Code, 1879. Bom. V  
of 1879.

(2) Nothing in section 90 shall apply to any sale made in pursuance of sub-section (1).

(3) (a) Where the land is sold to a person in pursuance of sub-section (1) (hereinafter referred to as "the purchaser"), he shall within thirty days from the date of the purchase of the land for a *bonafide* industrial purpose, send a notice of such purchase in such form alongwith such other particulars as may be prescribed, to the Collector and endorse a copy thereof to the Mamlatdar.

(b) Where the purchaser fails to send the notice and other particulars to the Collector under clause (a) within the period specified therein, he shall be liable to pay, in addition to the non-agricultural assessment leviable under this Act, such fine not exceeding two thousand rupees as the Collector may, subject to rules made under this Act, direct.

(c) Where, on receipt of the notice of the date of purchase for the use of land for a *bonafide* industrial purpose and other particulars sent by the purchaser under clause (a), the Collector, after making such inquiry as he deems fit—

(i) is satisfied that the purchaser of such land has validly purchased the land for a *bonafide* industrial purpose in conformity with the provisions of sub-section (1), he shall issue a certificate to that effect to the purchaser in such form and within such time as may be prescribed,

(ii) is not so satisfied, he shall, after giving the purchaser an opportunity of being heard, refuse to issue such certificate and on such refusal, the sale of land to the purchaser shall be deemed to be in contravention of section 89.

(d) (i) The purchaser aggrieved by the refusal to issue a certificate by the Collector under sub-clause (ii) of clause (c) may file an appeal to the State Government or such officer, as it may, by an order in writing, authorise in this behalf.

(ii) The State Government or the authorised officer shall, after giving the appellant an opportunity of being heard, pass such order on the appeal as it or he deems fit.

(4) (a) The purchaser shall comply with the provisions of any law for the time being in force or any order or direction of the Central Government or State Government or any Corporation owned or controlled by such Government, Government Company, local authority or statutory authority in relation to use of land for industrial purpose before the land is put to use for such purpose.



(b) The purchaser to whom a certificate is issued under sub-clause (i) of clause (c) of sub-section (3), shall commence industrial activity on such land within three years from the date of such certificate and commence production of goods or providing of services within five years from such date :

Provided that the period of three years or, as the case may be, five years may, on an application made by the purchaser in that behalf, be extended from time to time, by the State Government or such officer, as it may, by an order in writing, authorise in this behalf, in such circumstances as may be prescribed.

(5) Where the Collector, after making such inquiry as he deems fit and giving the purchaser an opportunity of being heard, comes to a conclusion that the purchaser has failed to commence industrial activity or production of goods or providing of services within the period specified in clause (b) of sub-section (4), or the period extended under the proviso to that clause, the land shall vest in the State Government free from all encumbrances on payment to the purchaser of such compensation as the Collector may determine, having regard to the price paid by the purchaser and such land shall be disposed of by the State Government, having regard to the use of land."

Amendment of  
section 118 of  
Bom. XCIX of  
1958.

9. In the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, in section 118, in sub-section (2), after clause (xix), the following new clause shall be inserted, namely :—

"(xix-a) the form of notice and particulars to be sent under clause (a), the rules subject to which Collector may direct the payment of fine under clause (b), the form of and the time within which a certificate is to be issued under sub-clause (i) of clause (c), of sub-section (3) and the circumstances in which the period may be extended under the proviso to clause (b) of sub-section (4), of section 89A;"

Repeal  
and savings.

10. (1) The Gujarat Tenancy and Agricultural Lands Laws (Amendment) (Second) Ordinance, 1996, is hereby repealed. Guj. Ord. 21 of 1996.

(2) Notwithstanding such repeal, anything done or any action taken under the respective Acts, as amended by the said Ordinance, shall be deemed to have been done or taken under the respective Acts, as amended by this Act.



## STATEMENT OF OBJECTS AND REASONS

At present there are three different Tenancy Laws in operation in the State. In the Bombay area of the State, the Bombay Tenancy and Agricultural Lands Act, 1948 is in force, in the Kutch area of the State, the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 is in force and in the Saurashtra area of the State, the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 is in force. In the Acts applicable to the Bombay area and the Kutch area of the State, the tenant can sell, with the permission of the Collector, the land which he has purchased under those Acts and under all the three Acts, the sale of agricultural land by an agriculturist to a non-agriculturist is allowed with the permission of the Collector. Those Acts are sought to be amended to allow sale of land by tenant or by an agriculturist to non-agriculturist for a *bonafide* industrial purpose so that the land can immediately be used for that purpose. In order to prevent the sale of land in contravention of the amended provisions, it is proposed that the purchaser is required to send a notice of such purchase to the Collector within thirty days from the date of purchase and to obtain a certificate from the Collector certifying that the land is purchased by the purchaser validly and where the certificate is refused, the sale of land to the purchaser is deemed to be in contravention of the relevant provisions of the Tenancy Laws. Where the total extent of such land so purchased exceeds ten hectares, it is proposed that the purchaser is required to obtain prior permission of the Industries Commissioner or an officer authorised by the State Government. Under the proposed provisions, the purchaser is also required to commence industrial activity within a period of three years from the date of issue of certificate of valid sale to him by the Collector and to commence production of goods or providing of services within five years from such date or within the extended period, failing which the land shall vest in the State Government on payment of compensation to the purchaser and the Government would be free to dispose it of having regard to the use of land.

For this purpose, a Bill called the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Bill, 1996 was introduced in the Gujarat Legislative Assembly on the 25th March, 1996 but could not be taken up for consideration by the House for want of time. As the Gujarat Legislative Assembly was not in session at that time, the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Ordinance, 1996 was promulgated on the 26th June, 1996. The said Ordinance has ceased to operate after the 14th October, 1996. Thereafter, the Gujarat Tenancy and Agricultural Lands Laws (Amendment) (Second) Ordinance, 1996 was promulgated to amend the said three Acts to achieve the aforesaid objects. This Bill seeks to replace the said second Ordinance by an Act of the State Legislature.

ATMARAM PATEL



## MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects :—

*Clause 3.*—(1) Clause (b) of the proviso to sub-section (1) of new section 63AA proposed to be inserted by this clause in the Bombay Tenancy and Agricultural Lands Act, 1948 empowers the State Government to authorise, by an order, any other officer to grant permission to the person to whom the land proposed to be sold exceeds ten hectares.

(2) (i) Clause (a) of sub-section (3) of the new section 63AA empowers the State Government to prescribe by rules the form of notice of purchase of land and the other particulars to be sent to the Collector.

(ii) Clause (b) of the said sub-section (3) empowers the State Government to prescribe the rules subject to which the Collector may direct the payment of fine not exceeding two thousand rupees.

(iii) Sub-clause (i) of clause (c) of the said sub-section (3) empowers the State Government to prescribe by rules the form in which and the time within which the Collector shall issue the certificate specified therein.

(iv) Sub-clause (i) of clause (d) of the said sub-section (3) empowers the State Government to authorise, by an order, an officer to whom an appeal may be filed against the refusal to issue the certificate by the Collector.

(3) The proviso to clause (b) of sub-section (4) of new section 63AA empowers the State Government—

(i) to authorise, by an order, an officer to extend from time to time, the period of three years or five years referred to in the said sub-section (4), and

(ii) to prescribe by rules the circumstances in which the State Government or the authorised officer may extend the said period.

*Clause 4.*—Clause (kaa) sought to be inserted in sub-section (2) of section 82 by this clause empowers the State Government to make the rules for the matters specified in that clause.

*Clause 5.*—(1) Clause (b) of the proviso to sub-section (1) of new section 55 proposed to be inserted by this clause in the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 empowers the State Government to authorise, by an order, any other officer to grant permission to the person to whom the land proposed to be sold exceeds ten hectares.

(2) (i) Clause (a) of sub-section (2) of the new section 55 empowers the State Government to prescribe by rules the form of notice of purchase of land and the other particulars to be sent to the Collector.

(ii) Clause (b) of the said sub-section (2) empowers the State Government to prescribe the rules subject to which the Collector may direct the payment of fine not exceeding two thousand rupees.



(iii) Sub-clause (i) of clause (c) of the said sub-section (2) empowers the State Government to prescribe by rules the form in which and the time within which the Collector shall issue the certificate specified therein.

(iv) Sub-clause (i) of clause (d) of the said sub-section (2) empowers the State Government to authorise, by an order, an officer to whom an appeal may be filed against the refusal to issue the certificate by the Collector.

(3) The proviso to clause (b) of sub-section (3) of new section 55 empowers the State Government —

(i) to authorise, by an order, an officer to extend from time to time, the period of three years or five years referred to in the said sub-section (3), and

(ii) to prescribe by rules, the circumstances in which the State Government or the authorised officer may extend the said period.

Clause 6.—Sub-section (2) of section 73 sought to be substituted by this clause empowers the State Government to make the rules for the matters specified in that sub-section.

Clause 8. (1) Clause (b) of the proviso to sub-section (1) of new section 89A proposed to be inserted by this clause in the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 empowers the State Government to authorise, by an order, any other officer to grant permission to the person to whom the land proposed to be sold exceeds ten hectares.

(2) (i) Clause (a) of sub-section (3) of the new section 89A empowers the State Government to prescribe by rules the form of notice of purchase of land and the other particulars to be sent to the Collector.

(ii) Clause (b) of the said sub-section (3) empowers the State Government to prescribe the rules subject to which the Collector may direct the payment of fine not exceeding two thousand rupees.

(iii) Sub-clause (i) of clause (c) of the said sub-section (3) empowers the State Government to prescribe by rules the form in which and the time within which the Collector shall issue the certificate specified therein.

(iv) Sub-clause (i) of clause (d) of the said sub-section (3) empowers the State Government to authorise, by an order, an officer to whom an appeal may be filed against the refusal to issue the certificate by the Collector.

(3) The proviso to clause (b) of sub-section (4) of new section 89A empowers the State Government —

(i) to authorise, by an order, an officer to extend from time to time, the period of three years or five years referred to in said sub-section (4), and

(ii) to prescribe by rules the circumstances in which the State Government or the authorised officer may extend the said period.



Clause 9.—Clause (xix-a) sought to be inserted in sub-section (2) of section 118 by this clause empowers the State Government to make the rules for the matters specified in the said clause (xix-a).

2. The delegation of legislative powers as proposed is necessary and is of a normal character.

Dated the 14th February, 1997.

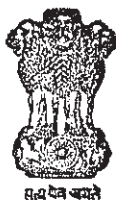
ATMARAM PATEL

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 15th February, 1997.



**The Gujarat Government Gazette**  
**EXTRAORDINARY**  
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Separate paging is given to this Part in order that it  
 may be filed as a separate compilation.

**PART V**

**Bill introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 20th February 1997 by  
 Shri Atmaram Patel, Minister for Revenue, is published under rule 127-A of the  
 Gujarat Legislative Assembly Rules for general information.

**"THE BOMBAY STAMP (GUJARAT AMENDMENT) BILL, 1997.**

**GUJARAT BILL NO. 8 OF 1997.**

**A BILL**

*further to amend the Bombay Stamp Act, 1958.*

It is hereby enacted in the Forty-eighth Year of the Republic of India as  
 follows :-

1. This Act may be called the Bombay Stamp (Gujarat Amendment) Act, 1997.

Short title.

2. In the Bombay Stamp Act, 1958, in section 44,—

(1) in sub-section (1), for the words and figures "under section 34", the words,  
 figures and letter "under section 32A, section 34" shall be substituted ;

(2) in sub-section (2), for the words and figures "under section 32", the  
 words, figures and letter "under section 32, section 32A," shall be substituted.

Amend-  
 ment of  
 section 44  
 of Bom.  
 LX of  
 1958.

Bom. LX  
 of 1958.



## STATEMENT OF OBJECTS AND REASONS

The existing section 44 of the Bombay Stamp Act, 1958 empowers the Chief Controlling Revenue Authority to refund any penalty in whole or in part levied under section 34 or section 39 as well as to refund any excess stamp duty charged under sections 32, 34 or section 39. In order to enable the Chief Controlling Revenue Authority to refund the penalty or the excess stamp duty paid under section 32A, it is considered necessary to amend section 44.

This Bill seeks to amend section 44 of the Act to achieve the aforesaid object.

Dated the 11th February, 1997.

ATMARAM PATEL

Gandhinagar,-

Dated the 20th February, 1997.

V. H. DAVE,

Secretary,

Gujarat Legislative Assembly."





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Separate paging is given to this Part in order that it  
 may be filed as a Separate Compilation.

**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

**THE GUJARAT CONTINGENCY FUND (TEMPORARY  
 INCREASE) BILL, 1997.**  
**GUJARAT BILL NO. 9 OF 1997.**

**A BILL**

*to provide for temporary increase in the Contingency Fund  
 of the State of Gujarat.*

It is hereby enacted in the Forty-eighth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Contingency Fund (Temporary Increase) Act, 1997. Short title and commencement

(2) It shall be deemed to have come into force on the 22nd October, 1996.

Gujarat Act IV of 1997.

2. Notwithstanding anything contained in section 2 of the Gujarat Contingency Fund Act, 1960, the extent of the sum of fifty crores of rupees specified in section 2 of the said Act as the sum to be paid into the Contingency Fund of the State of Gujarat shall, during the period beginning from the commencement of this Act and ending on the 31st March, 1997 be raised to five hundred crores of rupees.

Temporary increase in Contingency Fund of the State.



Repeal.

3. The Gujarat Contingency Fund (Temporary Increase)(Second) Ordinance, 1996 is hereby repealed. Guj. Ord. 17 of 1996.

#### STATEMENT OF OBJECTS AND REASONS

Section 2 of the Gujarat Contingency Fund Act, 1960 provides that out of the Consolidated Fund of the State, a sum of fifty crores of rupees shall be paid into the Contingency Fund of the State. Subsequent to approval of current year's budget estimates by the State Legislature—

(i) the Government of India has sanctioned and released rupees five crores, eighty-three lacs and fifty-nine thousand for the payment of assistance to local bodies for Prime Minister's Integrated Urban Poverty Eradication Programme;

(ii) rupees three crores and twenty lacs is required for election of Panchayats;

(iii) rupees six crores and one lac is required for farm-ponds for water storage in the State;

(iv) rupees two hundred thirty-four crores is required for enhancement of present plan ceiling as per discussion with Central Planning Commission on the 13th September, 1996; and

(v) rupees two hundred fifty crores is required for Voluntary Retirement Scheme for workers.

Before the Supplementary Demands relating to these and such other requirements are presented to the Legislative Assembly, such expenditure was required to be incurred from the Contingency Fund of the State. The balance in the said Fund was less than rupees four crores and was not sufficient to meet with aforesaid expenditure. It had, therefore, become necessary to increase temporarily, till the 31st March, 1997, the limit of the Fund from fifty crores of rupees to six hundred crores of rupees. As the Gujarat Legislative Assembly was not in session at that time, the Gujarat Contingency Fund (Temporary Increase) Ordinance, 1996 was promulgated on the 22nd October, 1996 to achieve the aforesaid object. The said Ordinance could not be replaced by an Act of the State Legislature and therefore second Ordinance was promulgated on the 2nd December, 1996 to continue the operation of the provisions of the first Ordinance. On reconsideration, it is deemed that five hundred crores of rupees would be sufficient to meet with the expenditure for the aforesaid and other requirements. It is, therefore, proposed to increase the limit of the Contingency Fund from fifty crores of rupees to five hundred crores of rupees. This Bill seeks to replace the Gujarat Contingency Fund (Temporary Increase) (Second) Ordinance, 1996, with the aforesaid modification, by an Act of the State Legislature.

Dated the 21st February, 1997

BABUBHAI MEGHJI SHAH.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,

Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 24th February, 1997.





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may be filed as a Separate Compilation.

**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 27th February, 1997 by Shri  
Usmangani Devdiwala, M.L.A., is published under rule 127-A of the Gujarat  
Legislative Assembly Rules for general information :—

**" Gujarat Bill No. 10 of 1997.**

**THE GUJARAT SECONDARY EDUCATION NATIONALISATION**  
**BILL, 1996**

**A BILL**

*to provide for the nationalisation of Secondary Education in the state of  
Gujarat and for matters connected therewith.*

It is hereby enacted in the forty-seventh year of the Republic of India  
as follows :—

1. (1) This Act may be called the Gujarat Secondary Education Nationalisation Act, 1996. Short title,  
extent and  
commence-  
ment.
- (2) It extends to the whole of the state of Gujarat.
- (3) It shall come into force at once.



Definitions.

2. In this Act, unless the context otherwise requires—

(1) "Board" means the Secondary Education Board established under section 5.

(2) "prescribed" means prescribed by rules.

(3) "secondary education" means education including basic education, in such subject from eighth standard upto such standard, not being higher than the tenth standard as may, by general or special order from time to time, be determined by the State Government;

(4) "secondary school" means a school imparting secondary education.

Taking  
over  
manage-  
ment  
of  
secondary  
schools.

3. With effect from the date appointed by the Government by the notification in the *Official Gazette*, the management and property of all the secondary schools imparting secondary education in the State of Gujarat shall vest in the Secondary Education Board and they shall be deemed to have been taken over by the State Government. No person or institution except the Government through Secondary Education Board shall impart secondary education thereafter.

Compensation.

4. The compensation of the secondary schools taken over by the State Government, shall be paid in accordance with the rules as may be prescribed.

Staff to  
be  
protected.

5. The headmasters, teachers and non-teaching staff of the secondary schools taken over by the Government shall work under the direct control and supervision of the Gujarat Secondary Education Board and their rights regarding pay, allowances, service conditions, etc., shall be protected by the Government in such manner as may be prescribed.

Secondary  
Education  
Board.

6. (1) With effect on and from such date as the State Government may, by notification in the *Official Gazette*, notify in this behalf, there shall be established for the purposes of this Act a Board to be called the Gujarat Secondary Education Board. The Board shall be a body corporate and have perpetual succession and a common seal and may by the said name sue and be sued and shall be competent to acquire, hold and dispose of property, both movable and immovable, and to contract and to do all things necessary for the purposes of this act.

(2) The Board shall consist of a Chairman and such number of other official and non-official members including M.L.As. as may be appointed by the State Government.

(3) The Minister for Education of the State shall be the *ex-officio* Chairman of the Board.

7. (1) The Chairman may hold office in an honorary capacity or on payment of remuneration. If any remuneration is to be paid to the Chairman, such remuneration, the term of office and other conditions of service shall be such as may be prescribed.

Terms of office and conditions of service of members.

(2) The allowances, terms and conditions of office of members shall be such as may be prescribed.

8. No person shall be disqualified for being chosen as or for being a member of the Legislative Assembly of the State by reason only of the fact that he is a Chairman or a Member of the Board.

No disqualification in certain cases.

9. The Board may appoint a Secretary and such other officers and servants as it considers necessary for the efficient performance of its functions.

Appointment of officers and servants.

10. The pay, allowances and conditions of service of the Secretary, officers and servants of the Board shall be such as may be determined.

Conditions of service of officers and servants.

11. The provisions of the Gujarat Secondary Education Act, 1973 so far as may be inconsistent with the provisions of this Act shall stand repealed.

Repeal of Gujarat 18 of 1973.

12. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

## STATEMENT OF OBJECTS AND REASONS

The secondary education imparted by the private institutions is not satisfactory. The teaching staff of the schools run by private institutions is also not happy with the private management. The education is the core of the progress of the nation and therefore it cannot be left in the private hands. To improve the standard of secondary education, to minimise the grievances of teaching and non-teaching staff and to do away with the evils of private management, nationalisation of secondary education is the only remedy. Hence this Bill.

Ahmedabad,  
Dated the 2nd August, 1996.

USMANGANI DEVDIWALA,  
M.L.A.

## FINANCIAL MEMORANDUM

At present there are more than 3000 private secondary schools in the State and the State Government is giving more than Rs. 100 crores as grants to them every year. In fact, private schools are run at the cost of Government money. For nationalisation of private secondary schools in the State, the State Government shall have to pay compensation to the owners of the schools to be taken over by the Government. An average expenditure of Rs. 5 lacs is estimated towards payment of compensation to each private school. Thus the total amount of compensation will be Rs. 150 crores. If the compensation is paid in yearly instalments the amount of compensation per year will depend upon the number of instalments. The expenditure towards the establishment of the Board and towards payment to its staff is not likely to exceed the amount spent towards the existing Secondary Education Board which will be replaced by the Board under this Act. The total expenditure from the Consolidated Fund of the State is, therefore estimated at Rs. 150 crores.

Ahmedabad,  
Dated the 2nd August, 1996.

USMANGANI DEVDIWALA,  
M.L.A.



## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of clause 2 empowers the State Government to determine by general or special order the last standard upto which education shall be considered to be secondary education.

Clause 4 of the Bill empowers the State Government to prescribe rules for payment of compensation for the properties of secondary schools taken over.

Clause 7 of the Bill empowers the State Government to prescribe the terms and conditions of office and allowances of Chairman and Members of the Board.

Clause 10 empowers the State Government to determine the pay, allowances and conditions of services of the Secretary, officers and servants of the Board.

Clause 12 empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is necessary and of normal character.

Ahmedabad,  
Dated the 2nd August, 1996.

USMANGANI DEVDIWALA,  
M.L.A.

Gandhinagar,  
Dated the 27th February, 1997.

V. H. DAVE,  
Secretary,  
Gujarat Legislative Assembly.

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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 27th February, 1997 by Shri Usmangani Devdiwala, M.L.A., is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

" Gujarat Bill No. 11 of 1997.

**THE GUJARAT MUNICIPALITIES AND MUNICIPAL  
CORPORATIONS SERVICE COMMISSION  
BILL, 1996.**

**A BILL**

*to provide for the constitution of a commission for the selection of staff for the appointment to posts in Municipalities and Municipal Corporations in the State and for matters connected therewith and incidental thereto.*

It is hereby enacted in the Forty-seventh year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Municipalities and Municipal Corporations Service Commission Act, 1996. Short title, extent and Commencement.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.



## Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Chairman" means the Chairman of the Commission;

(b) "Commission" means the Gujarat Municipalities and Municipal Corporations Service Commission constituted under sub-section (1) of section 3;

(c) "Government" means the Government of the State of Gujarat;

(d) "Notification" means notification published in the *Official Gazette* and the word "notified" shall be construed accordingly;

(e) "Prescribed" means prescribed by rules made under this Act;

(f) "Municipalities and Municipal Corporations" means the Municipalities and Municipal Corporations of the State of Gujarat.

Constitution of  
the Gujarat  
Municipalities  
and Municipal  
Corporations  
Service Com-  
mission.

3. (1) The State Government may, by notification constitute a Commission by the name of the Gujarat Municipalities and Municipal Corporations Service Commission.

(2) The Commission shall be a body corporate having perpetual succession and a common seal shall have power to sue and can be sued by the said corporate name.

(3) The headquarter of the commission shall be located at such place as may be prescribed by the Government.

Constitution of  
the Commis-  
sion.

4. (1) The Commission shall consist of not less than three and not more than nine members of whom one shall be the Chairman, to be appointed by the State Government.

(2) The Chairman and Members shall be persons who, in the opinion of the Government are man of ability, integrity and standing and have special knowledge of or practical experience in the public administration or personal management or industrial management.

Terms and Con-  
ditions of  
Service of  
Chairman and  
members.

5. (1) The Chairman or any other member of the Commission shall hold office for a term of three years from the date on which he enters upon his office:

Provided that a person who has held office as Chairman or other member shall, on the expiration of his term of office, be eligible for re-appointment for another term of three years only:

Provided further that no person who has attained the age of sixty two years shall be eligible to hold office in any capacity, whether as Chairman or other member.

(2) If the office of the Chairman or any other member becomes vacant by resignation or otherwise or if the Chairman is by reason of absence or for any other reason unable to perform the duties of his office, those duties shall until some person is appointed to the vacant office, or, as the case may be, until the chairman has assumed his duties, be performed by such one of the other members as the Government may appoint for the purpose.

(3) The Chairman or any other member may resign his office, by writing under his hand, addressed to the Government but he shall continue in office, until his resignation is accepted by the Government.

(4) The salary and the other terms and conditions of service of the Chairman and other members shall be such as may be prescribed.

6. The Government may, after making an inquiry in such manner as may be prescribed, remove the Chairman or any other member from his office on any one of the following grounds:—

Removal of  
Chairman or  
members.

(a) misconduct involving moral turpitude,

(b) insolvency;

(c) infirmity of mind or body or

(d) engagement during his term of office in any paid employment outside the duties of his office.

7. (1) The staff of the Commission shall consist of:—

Staff of the  
commission.

(a) Secretary, who shall be appointed by the Government; and

(b) such other employees as the Commission may, with the previous approval of the Government, appoint from time to time.

(2) The salary of the secretary and other employees of the Commission shall be such as may be prescribed.

(3) The other terms and conditions of service of the Secretary and employees of the Commission shall be such as may be prescribed.

8. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage to the contrary, it shall be the duty of the Commission to select persons for appointment to the posts in all or any of the Municipalities or Municipal Corporations as the case may be;

Function of the  
Commission.

(2) It shall be the duty of the Commission to advise the Municipalities and Municipal Corporations, on such matters as may be referred to them.

9. It shall be the duty of every Municipality and Municipal Corporation in the state to communicate to the Commission the vacancies existing at the commencement of this Act and estimated total number of vacancies in the Municipality and Municipal Corporation and such communication shall be sent in respect of all such existing and estimated total number of various vacancies and which are likely to occur during the unexpired portion of the year, within the month after commencement and in respect of all vacancies such as are likely to occur during each subsequent year within one month after the commencement of such year.

Duty of  
Municipalities  
and Municipal  
Corporations to  
the Commission.

10. (1) The manner of selection of the persons for the appointment to the Municipalities and Municipal Corporation shall be such as may be provided for by regulations.

Manner of  
Selection of  
persons and  
procedure for  
the conduct of  
the business of  
the commission.

(2) The procedure for the conduct of business of the Commission shall be such as may be provided for by regulations.



Duty of Commission to make recommendations.

11. It shall be the duty of the Commission to make recommendations to each Municipality and Municipal Corporation in such manner as may be specified by regulations for appointments to fill the vacancies, communicated to it by such Municipalities and Municipal Corporations.

Communicated vacancies to be filled only on the recommendation of the Commission.

12. (1) Appointments to all the vacancies required to be communicated to the Commission under Section 9 shall, on or from such date as the Commission may notify in respect of each Municipality and Municipal Corporation be made by such Municipality or Municipal Corporation only on the recommendations of the Commission.

(2) If in any year, the Commission is unable to make recommendation for appointment to all the vacancies communicated to it by a Municipality or Municipal Corporation under Section 9, or if the Municipality or Municipal Corporation is unable in any year to make appointments on the basis of the recommendations made by the Commission, the vacancies may be carried forward to the subsequent year.

Effect of recommendation of the Commission.

13. Notwithstanding anything contained in any other law for the time being in force, or in any contract, custom or usage to the contrary, appointments to the posts in Municipalities or Municipal Corporations shall be made on the recommendations of the Commission.

Power to call for record.

14. The Commission may, call for any record, report or any other information from any Municipality or Municipal Corporation if in its opinion, such record, report or other information is necessary for the efficient discharge of its functions, and the Municipality or Municipal Corporation shall furnish such record, report or other information to the Commission.

Obligations as to Secrecy.

15. The Chairman, Members, the Secretary and other employees of the Commission shall maintain strictest secrecy regarding the affairs of the Commission and shall not divulge, directly or indirectly any information of a confidential nature to members of the public unless compelled to do so by any judicial or other authority or unless instructed to do so by superior officer in the discharge of his duties.

Chairman, members, etc. to be public servants under Act XLV of 1860.

16. The Chairman, Members, the Secretary and other employees of Commission appointed under this Act, shall while acting or purporting to act under this Act be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Proceedings not to be invalidated by reasons of vacancies etc. in the Commission or its committees.

17. No act or proceedings of the Commission or any of its committees shall be deemed to be invalid by reasons or on the ground that the Chairman of the Commission or any member of the Commission or Committee, as the case may be, was not entitled to hold or continue in such office or by reasons of such act or proceeding having been done or conducted during the period of any vacancy in office of the Chairman of the Commission or any of the members of the Commission or Committee, as the case may be.

Protection of action taken in good faith.

18. No suit, prosecution or other legal proceedings shall lie against any person for anything, which is in good faith done or intended to be done under this Act.



19. (1) The State Government may, by notification in the *Official Gazette* make rules for carrying out the purposes of this Act. Power of State Government to make Rules.

(2) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the State Legislature or to such modification as the State legislature, may make during the session in which they are so laid, or the session immediately following.

(4) Any rescission or modification so made by the State legislature shall be published in the *Official Gazette* and shall thereupon take effect.

20. (1) The Commission may, by notification in the *Official Gazette*, make regulations with the previous approval of the State Government for carrying out the purposes of this Act. Power of Commission to make Regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

(a) the terms and conditions of services of the employees of the Commission under sub-section (3) of section 7.

(b) the manner of selection of persons for appointment to the posts in the Municipalities and Municipal Corporations under sub-section (1) of section 10.

(c) the procedure for the conduct of business of the Commission under sub-section (2) of section 10 and 13.

(d) the income and expenditure, budget accounts and audit and annual report of the Commission.

#### STATEMENT OF OBJECTS AND REASONS

At present each Municipality and Municipal Corporation selects its staff in its own ways. There are so many complaints regarding irregularity and malpractices in the selection of Staff. Sometime, method of selection of staff is also not scientific. With a view, therefore, to avoiding complaints regarding irregularity and malpractices in the selection of the staff for the Municipalities and Municipal Corporations it is considered necessary to establish a Gujarat Municipalities and Municipal Corporations Service Commission. The following note on clauses explain the important provisions of the Bill:-

**Clause 3 :—**This clause provides for the constitution of the Gujarat Municipalities and Municipal Corporations Service Commission, which shall be a body corporate having perpetual succession.

**Clause 4 :—** This clause provides for the constitution of the Commission with members not less than three and not more than nine.

**Clause 5 :—**This clause provides for terms and conditions of the office of Chairman and Members.

**Clause 6 :—**This clause provides for the removal of members on certain grounds.

Clause 8 :—This clause provides for the functions of the Commission.

Clause 9 :—This clause imposes the duty on the Municipalities and Municipal Corporations to Communicate the vacancies in the Municipalities and Municipal Corporations to the Commission.

Clause 12 :—This clause provides that the vacancies in a Municipality or Municipal Corporation shall be filled only on the recommendation of the Commission.

Clause 16 :—This Clause provides that the Chairman, members and other staff shall be public servants within the meaning of Indian Penal Code.

Clause 18 :—This clause is indemnity clause.

Clause 19 :—This clause provides for the powers to State Government to make rules for the purposes of this Act.

Ahmedabad,  
Dated the 2nd August, 1996.

USMANGANI DEVDIWALA,  
M.L.A.

#### FINANCIAL MEMORANDUM

Sub-clause (4) of Clause 5 provides for the Salary and allowances and other conditions of service of the Chairman and other members of the Commission.

Sub-clause (2) and (3) of Clause 7 provides for the Salary and other terms and conditions of services of the Secretary and other employees of the Commission.

These provisions if enacted and brought into operation would involve an estimated annual expenditure of about rupees twenty lakhs from the Consolidated Fund of the State out of which about rupees ten lakhs would be of recurring nature and about rupees ten lakhs would be of non-recurring nature.

Ahmedabad,  
Dated the 2nd August, 1996.

USMANGANI DEVDIWALA,  
M.L.A.



## MEMORANDUM REGARDING DELEGATED LEGISLATION.

*Clause 1.*—Sub-clause (2) of this clause empowers the State Government to appoint the date from which the Act shall come into force.

*Clause 3.*—Sub-clause (3) of this clause empowers the State Government to prescribe the place at which the Headquarters of the Commission, shall be located.

*Clause 5.*—Sub-clause (4) of this clause empowers the State Government to prescribe the salary of the Chairman and other members of the Commission and the other terms and conditions of their service.

*Clause 6.*—This clause empowers the State Government to prescribe the manner in which the inquiry shall be made.

*Clause 7.*—(i) Sub-clause (2) of this clause empowers the State Government to prescribe the salary of the Secretary and other employees of the Commission.

(ii) Sub-clause (3) of this clause empowers the State Government to prescribe the other terms and conditions of the service of Secretary and other employees of the Commission.

*Clause 10.*—(i) Sub-clause (1) of this clause empowers the Commission to provide by regulation the manner of selection of the persons for the appointment.

(ii) Sub-clause (2) of this clause empowers the Commission to provide by regulation the procedure for the conduct of its business.

*Clause 11.*—This clause empowers the Commission to specify the manner by regulations for making its recommendations to the Municipalities and Municipal Corporations.

*Clause 19.*—This clause empowers the State Government to make Rules for carrying out the purposes of this act.

*Clause 20.*—This clause empowers the Commission to make regulations with the previous approval of the State Government.

Ahmedabad,  
Dated the 2nd August, 1996.

USMANGANI DEVDIWALA,  
M.L.A.

Gandhinagar,  
Dated the 27th February, 1997.

V. H. DAVE,  
Secretary,  
Gujarat Legislative Assembly.



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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 27th February, 1997 by Shri. Usmangani Devdiwala, M.L.A., is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

" Gujarat Bill No. 12 of 1997.

**THE GUJARAT ONE JOB IN EACH LOWER INCOME  
 GROUP FAMILY BILL, 1996.**

*A BILL*

*to provide for a job at least to one person in each lower income group family in  
 the State of Gujarat.*

It is hereby enacted in the forty-seventh year of the republic of India as follows:—

1. (1) This Act may be called the Gujarat One Job in Each Lower Income Group Family Act, 1996.

Short title  
 extent and  
 commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires :—

Definitions.

(a) "adult person" means a person who has attained the age of eighteen years;

(b) "family" includes wife, son, daughter, father, mother, brother or sister of a person and residing with him;

(c) "lower income group family" means a family whose yearly income per member of the family is less than Rs. 10,000;

(d) "prescribed" means prescribed by rules made this Act;

(e) "scheme" means a scheme prepared to give at least one job in each lower income group family;

Report on un-employment condition.

3. The State Government shall prepare and publish a Report on unemployment condition and yearly income in each family in the State of Gujarat within six months from the date of coming into force of this Act.

Scheme.

4. (1) On preparation and publications of the Report under section 3, the State Government shall prepare and publish within three months a scheme for providing a job carrying a salary of Rs. 750 per month at least to one adult person in each lower income group family.

(2) The scheme shall be prepared and published in such manner as may be prescribed.

One job in each family.

5. (1) After publication of the scheme under section 4, the State Government shall take steps to provide jobs as per the scheme.

(2) If the State Government is unable to provide a job carrying a salary of Rs. 750 per month to one adult person in a lower income group family, within one year from the date of operation of this Act, an un-employment allowance at the minimum rate of Rs. 25 per day shall be paid to such family until a job is provided to an adult person of such family.

Implementa-tion of Act and scheme.

6. (1) The State Government shall appoint implementing agencies for implementation of the Act and the scheme in every district in such manner as may be prescribed.

(2) The State Government shall appoint such officers and servants as it may deem necessary for carrying out the purposes of this Act.

Power to make rules.

7. (1) The State Government may, by notification, in the Official Gazette make rules to carry out all or any of the purposes of this Act.

(2) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any rescission or modification so made by the Legislature shall be published in the Official Gazette and shall thereupon take effect.



## STATEMENT OF OBJECTS AND REASONS

Unemployment is increasing day by day amongst both the educated and un-educated people. Thousands of young brilliant persons are wasting their time without any work. Similarly landless agricultural labourers and halpatis are without work for a considerable period in a year. About 50% of our population is living below poverty line, as a result of which the economic, social, educational and cultural growth is hampered.

To avoid this situation it is very necessary that at least one adult person from each lower income group family, whose yearly income per member of the family is less than Rs. 10,000 is given job and in the alternative the unemployment allowance.

Hence this Bill.

Ahmedabad,  
Dated the 2nd August, 1996.

USMANGANI DEVDIWALA,  
M.L.A.

## FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for providing one job in each lower income group family and in the alternative unemployment allowance. Clause 6 provides for appointment of officers and servants for carrying out the purposes of the Act.

These provisions if enacted is likely to involve expenditure from the Consolidated Fund of the State. As the exact involvement of the expenditure to be incurred by the State Government depends also upon the survey to be carried out by Government under Section 3. It is difficult to give any estimate of recurring or non-recurring expenditure at present.

Ahmedabad,  
Dated the 2nd August, 1996.

USMANGANI DEVDIWALA,  
M.L.A.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (2) of clause 4 empowers the State Government to prescribe the manner in which the scheme shall be prepared and published.

Sub-clause (1) of clause 6 empowers the State Government to prescribe the manner in which the implementing agencies shall be appointed.

Sub-clause (2) of clause 6 empowers the State Government to appoint Officers and Servants for carrying out the purposes of the Act.

Sub-clause (1) of clause 7 empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of Legislative powers as aforesaid is necessary and of normal character.

Ahmedabad,  
Dated the 2nd August, 1996.

USMANGANI DEVDIWALA,  
M.L.A.

Gandhinagar,  
Dated the 27th February, 1997.

V. H. DAVE,  
Secretary,  
Gujarat Legislative Assembly.



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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 27th February, 1997 by  
Shri-USMANGANI DEVDIWALA, M.L.A., is published under rule 127-A of the  
Gujarat Legislative Assembly Rules for general information :—

**"GUJARAT BILL NO. 13 OF 1997.**

**THE GUJARAT STATE SPORTSMEN ENCOURAGEMENT BILL, 1996.**

**A BILL**

*to provide for assistance and encouragement to the leading Sportsmen of the State  
and for matters connected therewith.*

It is hereby enacted in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat State Sportsmen Encouragement  
Act, 1996.

Short title, extent and Commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) "Government Servant" means any person appointed to any civil service or post in connection with the affairs of the State of Gujarat and includes also the following—

(i) a Government servant on deputation to other Governments in India.

(ii) Government servant on foreign Service.

(b) "Prominent Sportsman" means the sportsman who has secured first, second and third place in any National or International level event of the Sports or Games.

(c) "Promising Sportsman" means a Sportsman who has secured first, second or third place in State level competition of the Sports or Games.

(d) "Sportsman" includes sportswoman.

Free hostel facility.

3. Prominent Sportsman or Promising Sportsman shall be provided free lodging, boarding and practice facility in the Sports Hostels established by the State Government.

Scholarship.

4. Prominent Sportsman shall be given Scholarship of Rupees five thousand for the years in which he has secured first, second or third place.

Loan facility.

5. Prominent Sportsman and Promising Sportsman, on application made in this behalf, may be granted a loan without interest upto rupees ten thousand repayable in maximum fifty monthly instalments.

Encouragement amount.

6. Prominent Sportsman or Promising Sportsman who is called for selection trial for any international sportsmeet may be granted a sum of rupees ten thousand as an encouragement amount.

Special assistance award.

7. A Sportsman who has represented or selected for representing India in any international Sportsmeet may be granted a sum of Rs. 25,000/- as a Special assistance award.

Free residential plot.

8. A Prominent Sportsman or Promising sportsman shall be allotted free residential plot measuring 200 sq. m. at the place where he ordinarily resides.

Encouragement to Government Servant.

9. A Government servant who is participating in the district level, state level or National level sports competition shall be given —

(a) Kit allowance upto Rs. 1000/-, and

(b) one month special leave for preparation of competition; and

(c) travelling allowance and daily allowance for the days of actual participation in the competition.

Leave Facility.

10. A Government Servant who is a Prominent Sportsman or Promising Sportsman may be allowed upto six months a special leave in service for preparation of National Level or International Level Sports Competition.

Light Duty.

11. A Prominent Sportsman or Promising Sportsman who is in Government Service may be assigned light duty and he may be transferred at suitable place where he can promote his sport.

Power to make rules.

12. (1) The State government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may be made to provide for all or any of the following matters, namely :—



(a) the authority by which and the manner in which the free lodging, Boarding and practice facility is to be provided.

(b) rules regulating the award to be given to prominent Sportsman and Promising sportsman.

(c) rules regulating grant of loans, encouragement award and special assistance award.

(d) rules regulating assignment of suitable transfer, light duty and special leave.

(e) rules regulating kit allowance, on duty leave, travelling and daily allowance under section 9.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the state Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

## STATEMENT OF OBJECTS AND REASONS.

Many promising and prominent sportsman of the State of Gujarat are facing difficulties of finance. Such sportsman who are representing Gujarat State or India and earning glory for the State and the Nation deserve encouragement as well as assistance from the State. The present facility like nominal scholarship is highly inadequate. No loan or scholarship is available to them. Adequate facility for practice, free lodging and boarding facility etc. should be provided to the leading sportsman. Government should help such sportsmen who earn glory for State and the Nation and thereby put the name of the State of Gujarat on the top of the medal tally of the National and International level sports meet.

Ahmedabad,  
Dated the 2nd August, 1996.

USMANGANI DEVDIWALA,  
M.L.A.

## FINANCIAL MEMORANDUM

The Bill involves expenditure in the following respects:—

- (1) Clause 4 of the Bill provides for grant of a Scholarship of Rs. 5000/- to a Prominent Sportsman.
- (2) Clause 5 of the Bill provides for loan facility to both Prominent as well as Promising Sportsmen.
- (3) Clause 6 of the Bill provides for grant of a sum of Rs. 10,000/- as an encouragement amount.
- (4) Clause 7 of the Bill provides for grant of a sum of Rs. 25,000/- as a special assistance award.
- (5) Clause 9 of the Bill provides for grant of a sum of Rs. 1000/- as kit allowance. It also provides for travelling and daily allowance to Government Servant.

These provisions if enacted and brought into operation, would involve an estimated annual expenditure of about Rs. 25,00,000/- from the Consolidated Fund of the State, which would be of recurring nature.

Ahmedabad,  
Dated the 2nd August, 1996.

USMANGANI DEVDIWALA,  
M.L.A.

## MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves delegation of legislative powers in the following respects:-

Clause 13 (1) Sub-clause (1) of this clause empowers the State Government to make rules by notification in the Official Gazette for carrying out the purposes of this Act.

(2) Sub-clause (2) of this clause empowers the State Government to make rules in all or any of the following matters:-

(a) the authority by which and the manner in which the free lodging, boarding and practice facilities shall be provided,

- (b) the award to be given to prominent sportsman and promising sportsman;
- (c) grant of loans, encouragement award and special assistance awards;
- (d) assignment of suitable transfer, light duty and special leave;
- (e) kit allowance, on duty leave, travelling and daily allowance under section 9;

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Ahmedabad,  
Dated the 2nd August, 1996.

USMANGANI DEVDIWALA,  
M.L.A.

Gandhinagar,  
Dated the 27th February, 1997.

V. H. DAVE,  
Secretary,  
Gujarat Legislative Assembly.





**The Gujarat Government Gazette**  
**EXTRAORDINARY**  
 PUBLISHED BY AUTHORITY

VOL. XXXVIII]

WEDNESDAY, MARCH 5, 1997/PHALGUNA 14, 1918

Separate paging is given to this Part in order that it  
 may be filed as a Separate Compilation.

**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 5th March, 1997 by  
 Shri DHIREN DESAI, M.L.A., is published under Rule 127-A of the Gujarat  
 Legislative Assembly Rules for general information:—

**“GUJARAT BILL NO. 14 OF 1997.**

**THE GUJARAT FAMILY WELFARE BILL, 1997.**

**A BILL**

*to control the population growth and provide measures to restrict the size of the  
 family so as to provide opportunities for individual development and to attain  
 family welfare in the State of Gujarat and for matters connected therewith.*

It is hereby enacted in the Forty Eighth Year of the Republic of India, as  
 follows :—

1. (1) This Act may be called the Gujarat Family Welfare Act, 1997.

Short title,  
 extent and com-  
 mencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by  
 notification, in the *Official Gazette*, appoint.



## Definitions.

## 2. In this Act, unless the context otherwise requires,—

## (a) "Public Servant" means,—

(i) any person in the Service or pay of the State Government or remunerated by fees or commission for the performance of any duty by the State Government.

(ii) any person in the Service or pay of a local authority or a Corporation established under the State or Central Act or a body owned or controlled or aided by the State Government or a Government Company established by the State Government under Section 617 of the Companies Act, 1956.

(b) "Local Body" means a body constituted under the Bombay Provincial Municipal Corporations Act, 1949 or the Gujarat Municipalities Act, 1963 or the Gujarat Panchayats Act, 1993 or any other Act under which a body is created or constituted in the State of Gujarat;

(c) "University" means any University established by law in the State of Gujarat and includes any other institution recognised by the University Grants Commission;

(d) "Public Distribution System" means a system under which essential commodities such as food grain, sugar, kerosin, cooking oils etc. are provided through fair price shop on family card as regulated under the Essential Commodities Act, 1955 or any other Act or rules framed by the State Government;

(e) "Educational Institution" means an institution imparting primary or secondary or higher education, recognised or registered under the Bombay Primary Education Act, 1947 or the Gujarat Secondary Education Act, 1973 or under any University established by law in the State of Gujarat or other Authority constituted under the State or Central Act;

(f) "Specified Date" means a date specified for bringing into effect the provisions of this Act which shall be the date one year later than the date fixed under sub-section (3) of section 1.

Disqualifica-  
tion on viola-  
tion of small  
family norm.

3. A person shall be disqualified for the purposes enumerated in section 4 of this act if he has more than two children;

Provided that nothing contained in this Section shall apply to any person—

(a) having more than two children on the date of commencement of the Act or as the case may be, within a period of one year of such commencement, unless he begets an additional child after the said period of one year;

(b) having one child on the date of commencement of the Act or as the case may be, within a period of one year of such commencement, if a subsequent child birth results in the birth of more than one child.



*Explanation:*—For the purposes of this Section, a person shall not cease to incur disqualification merely by reason of his giving his child in adoption.

4. A person disqualified under section 3 of this Act, shall—

Disqualified persons not entitled to certain benefits/facilities.

(1) not be entitled to a membership of a local Body;

(2) if he is a public servant, not be entitled to get—

(a) yearly increment or due promotion;

(b) facilities such as advances for purchase of residential accommodation, vehicles and food grains;

(3) if he is a person working in the University or any other educational institution as clerical or teaching staff, not be entitled to get yearly increment or due promotion;

(4) not be entitled to avail medical facility in any hospital run by the State Government or by a local body or by any other authority receiving grant of the State Government;

(5) not be entitled to get any essential commodity from the fare price shop or to avail any facility under the Public Distribution System;

(6) not be entitled to a new gas connection.

5. (1) The Commissioner of Health and Medical Services shall take all necessary measures to create awareness of the provisions of this Act.

Function of Commissioner of Health & Medical Services.

(2) The Commissioner of Health and Medical Services of the State of Gujarat shall supervise the implementation of this Act and shall prepare a statement of breach of the provisions of this Act and shall cause it to be laid on the table of the Gujarat Legislative Assembly.

6. (1) The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for carrying out the purposes of this Act;

Power to make rules.

(2) Rules made under this section shall be laid before the State Legislature as soon as possible after they are made and shall be subject to such modifications or rescission as the State Legislature may make in the session in which they are so laid;

(3) Any modification or rescission so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.



## STATEMENT OF OBJECTS AND REASONS

After independence, large scale socio-economic development activities have been undertaken by the State. Simultaneously, unchecked birth rate has adverse implications on our socio-economic development, which has resulted in a very poor share of development to the individual. According to 1991 census, the population of India is 844.3 million and it is increasing by more than 17 million annually. Stabilization of the population at the replacement level is the over-riding national priority.

In the world, countries like China, have taken drastic steps to control the birth rate. In India the Central Family Welfare Minister had also introduced a Bill in the Rajya Sabha on 22nd December, 1992 so as to control the birth rate. In the scheme of this Bill, it is suggested that, provisions of the Act shall come into force after a long time of one year, so that everybody can know the impact of the provisions of the Act and restrict the size of their family. The main purpose of the Bill is to create awareness in the minds of the people to restrict the size of their family. If this is not done, the scope for the new development is very meagre. For family welfare and individual development this Bill is proposed.

Gandhinagar,  
Dated the 21st January, 1997.

DHIREN DESAI,  
M.L.A.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of Clause (1) empowers the State Government to specify the date on which the Act shall come into force.

Sub-clause (1) of clause (6) empowers the State Government to make rules for carrying out the purposes of this Act.

The delegation of Legislative powers as aforesaid is essential and of normal character.

Gandhinagar,  
Dated the 21st January, 1997.

DHIREN DESAI,  
M.L.A. "

Gandhinagar  
Dated the 5th March, 1997.

V. H. DAVE,  
Secretary,  
Gujarat Legislative Assembly.





# The Gujarat Government Gazette

## EXTRAORDINARY

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may be filed as a separate compilation.

### PART V

#### Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 5th March, 1997 by Shri Dhiren Desai, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

**“ GUJARAT BILL NO. 15 OF 1997.**

#### THE GUJARAT PREVENTION OF ACCIDENTS ON HIGHWAYS BILL, 1997.

##### A BILL

*to make provisions for prevention of accidents on highways and for matters connected therewith.*

It is hereby enacted in the Forty Eighth Year of Republic of India as follows:—

1. (1) This Act may be called the Gujarat Prevention of Accidents on Highways Act; 1997.

Short title  
and com-  
mence-  
ment.

(2) It shall come into force at once.

Defini-  
tions.

2. In this Act, unless the context otherwise requires—

(a) “Special Authority” means the Authority constituted under Section 3 of this Act.

(b) “Highway” means, State Highways, National Highways and such other Roads as may be classified as such by the State Government.

(c) “Traffic Police” Means a section of the Gujarat Police looking after the regulations of Highway Traffic.

(d) The expressions which are used, but not defined shall have the same meaning as are assigned to them in the Motor Vehicles, Act, 1988.



Establishment of Special Authority

3. (1) The State Government shall, by notification in the *Official Gazette*, establish a special authority for the Prevention of Accidents on Highways in the State of Gujarat.

(2) The Special Authority shall consist of the Chairman and such other members not exceeding 14 as may be appointed by the State Government.

Provided that out of 14 members to be appointed on the Authority by the State Government at least two members shall be appointed from amongst the members of the Gujarat Legislative Assembly.

Tenure of the members of the special Authority.

4. The Chairman and the members of the Special Authority shall be appointed for a period of 3 years from the date of their appointment.

Provided that the members of Gujarat Legislative Assembly shall continue to be members of the Special Authority so long as they cease to be members of the Assembly.

Payment of allowances to the Chairman and other members of the Special Authority.

5. The Chairman and the members of the Special Authority shall not be entitled to receive any salary but they shall be entitled to receive such allowances for performing their duties as may be determined by the State Government.

Staff under the Special Authority.

6. (1) The staff under the Special Authority shall consist of :-

(a) Secretary, who shall be appointed by the Government and;

(b) Such other employees as the Special Authority may, with the previous approval of the State Government, appoint from time to time.

(2) The salary of the Secretary and other employees shall be such as may be prescribed.

(3) The other terms and conditions of the services of the Secretary and other employees shall be such as may be prescribed.

Functions of the Special Authority.

7. The functions of the Special Authority shall be :-

(a) to supervise the road traffic and to suggest the measures for avoiding accidents on the Highways.

(b) to keep record of Accidents and to find out the common causes of the accidents and to suggest the remedial measures.

(c) to suggest changes in the existing Highway Traffic rules.

(d) The State Highway Police shall implement the suggestions made by the Special Authority and shall also carry out the instructions issued by it and will provide necessary assistance to the Authority.

Power to make Rules.

8. (1) The State Government may frame the rules by notification in the *Official Gazette* to carry out the objects of the Act.

(2) The rules made under the section shall be laid before the Legislature of the State at the session thereof next following and shall be liable to be modified or rescinded by a resolution passed by the Legislature and such rules after notifying in the *Official Gazette*, be deemed to have been modified or rescinded accordingly.

## STATEMENT OF OBJECTS AND REASONS

At present the Road Accidents on the Highways of Gujarat are increasing at an alarming rate. Every day several accidents occur on the highways resulting in loss of lives of the people and also making many people impaired by severe and permanent injuries.

The existing machinery of Highway Police which looks after the Highway Traffic is not sufficient to check the Highway Accidents.

Therefore, a separate Special Authority is proposed to be set up to suggest measures and issue directions to the highway Traffic police with a view to control and minimise accidents taking place on highways of Gujarat.

Gandhinagar.

Dated the 21st January, 1997.

DHIREN DESAI,

M. L. A.

## FINANCIAL MEMORANDUM

Sections 5 and 6 provide for payment of salaries and allowances to the Chairman, Members and Staff of the Special Authority which may involve expenditure from the Consolidated Fund of the State of about Rs. 15 lacs per year.

Gandhinagar,

Dated the 21st January, 1997.

DHIREN DESAI,

M. L. A.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of Legislative powers in the following respects:-

*Clause 3.*-This clause empowers the State Government to appoint by notification in the *Official Gazette*, a Special Authority.

*Clause 5.*-This clause empowers the State Government to determine the allowances to the Chairman and members of the Special Authority.

*Clause 6.*-This clause empowers the State Government to approve the strength and other conditions of service of the Secretary and employees under the Special Authority.

*Clause 8.*-This clause empowers the State Government to frame the rules to carry out the objects of the Act.

The delegation of legislative powers as aforesaid is of normal character.

Gandhinagar.

Dated the 21st January, 1997.

DHIREN DESAI,

M. L. A.,

Gandhinagar,

Dated the 5th March, 1997.

V. H. DAVE,

Secretary,  
Gujarat Legislative Assembly.



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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the  
*Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the  
 proviso to rule 127 A of the Gujarat Legislative Assembly Rules :—

**THE GUJARAT (SUPPLEMENTARY) APPROPRIATION BILL, 1997.**

**GUJARAT BILL NO. 16 OF 1997.**

**A BILL**

*to authorise payment and appropriation of certain further sums from and out of the  
 Consolidated Fund of the State of Gujarat for the services of the financial year  
 ending on the thirty-first day of March, 1997.*

It is hereby enacted in the Forty-eighth Year of the Republic of India as follows :—

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 1997. Short title.
2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid  
 and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed  
 amounting in the aggregate to the sum of two thousand one hundred eighty-eight crores,  
 thirty-one lakhs, thirty-six thousand rupees towards defraying the several charges which  
 will come in course of payment during the financial year ending on the thirty-first day of  
 March, 1997, in respect of the services and purposes specified in column 2 of the Schedule.

Issue of  
 Rs. 2188  
 31,36,000 from  
 and out of the  
 Consolidated  
 Fund of the  
 State of Gujarat  
 for the financial  
 year 1996-97.

3. The sums authorised to be paid and applied from and out of the Consolidated  
 Fund of the State of Gujarat by this Act shall be appropriated for the services and  
 purposes expressed in the Schedule in relation to the said year.



**THE SCHEDULE**  
(See sections 2 and 3)

No. of Vote/ Appropriation	Services and Purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
1	Agriculture, Cooperation and Rural Development Department	Revenue	13,02,000	—	13,02,000
2	Agriculture	Revenue	6,90,58,000	62,000	6,91,20,000
		Capital	56,78,000	—	56,78,000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	5,12,57,000	—	5,12,57,000
		Capital	25,00,000	—	25,00,000
4	Animal Husbandry and Dairy Development	Revenue	7,29,72,000	83,000	7,30,55,000
		Capital	1,50,00,000	—	1,50,00,000
5	Co-operation	Revenue	9,99,34,000	—	9,99,34,000
		Capital	4,32,59,000	—	4,32,59,000
6	Other expenditure pertaining to Agriculture, Cooperation and Rural Development Department	Revenue	—	18,18,50,000	18,18,50,000
		Capital	92,40,000	—	92,40,000
7	Education Department	Revenue	19,80,000	—	19,80,000
8	Education	Revenue	1,32,95,85,000	1,25,22,000	1,34,21,07,000
		Capital	—	—	—
9	Other expenditure pertaining to Education Department	Revenue	13,26,000	—	13,26,000
		Capital	86,38,000	—	86,38,000
10	Energy & Petro- Chemicals Department	Revenue	25,000	—	25,000
11	Tax Collection Charges (Energy & Petro- Chem. Department)	Revenue	—	—	—

No. of Vote/ Appropriation	Services and Purposes		Sums not exceeding		Total
			Voted	Charged on the Consolidated Fund	
1	2		3		
12	Energy Projects	Revenue	6,67,81,00,000	—	6,67,81,00,000
		Capital	—	—	—
13	Other expenditure pertaining to Energy & Petro-Chemicals Department	Capital	10,00,00,000	—	10,00,00,000
14	Finance Department	Revenue	18,64,000	—	18,64,000
		Capital	—	—	—
15	Tax Collection Charges (Finance Department)	Revenue	3,16,21,000	—	3,16,21,000
16	Treasury & Accounts Administration	Revenue	1,52,61,000	43,000	1,53,04,000
17	Pension & Other Retirement Benefits	Revenue	91,10,20,000	—	91,10,20,000
18	Other expenditure pertaining to Finance Department	Revenue	1,000	—	1,000
		Capital	5,31,94,83,000	—	5,31,94,83,000
19	Repayment of debt pertaining to Finance Department	Revenue	—	15,80,41,000	15,80,41,000
		Capital	—	7,58,32,000	7,58,32,000
20	Food & Civil Supplies Department	Revenue	39,95,000	—	39,95,000
21	Civil Supplies	Revenue	5,76,47,000	—	5,76,47,000
		Capital	3,00,00,000	—	3,00,00,000
22	Food	Revenue	1,19,64,000	26,000	1,19,90,000
		Capital	53,74,000	—	53,74,000
23	Other expenditure pertaining to Food & Civil Supplies Department	Revenue	—	19,000	19,000
		Capital	13,40,000	—	13,40,000



No. of Vote/ Appropriation	Services and Purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2		3		
24	Forest and Environment Department	Revenue	22,50,000	5,00,000	27,50,000
25	Forest	Revenue	4,87,33,000	4,72,000	4,92,05,000
		Capital	—	—	—
26	Environment	Revenue	10,00,000	—	10,00,000
27	Other expenditure pertaining to Forest and Environment Department	Capital	25,33,000	—	25,33,000
28	Governor	Revenue	—	41,20,000	41,20,000
29	Council of Ministers	Revenue	18,85,000	—	18,85,000
30	Elections	Revenue	15,06,32,000	—	15,06,32,000
31	Public Service Commission	Revenue	—	11,25,000	11,25,000
32	General Administration Department	Revenue	3,000	5,000	8,000
33	Economic Advice & Statistics	Revenue	31,86,000	—	31,86,000
34	Other expenditure pertaining to General Administration Department	Revenue	7,16,000	—	7,16,000
		Capital	8,60,000	—	8,60,000
35	State Legislature	Revenue	—	2,50,000	2,50,000
36	Loans & Advances to Government Servants in Gujarat Legislature Secretariat	Capital	4,00,000	—	4,00,000
37	Health and Family Welfare Department	Revenue	45,00,000	—	45,00,000
38	Medical and Public Health	Revenue	29,27,97,000	4,13,000	29,32,10,000



No. of Vote/ Appropriation	Services and Purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
39	Family Welfare	Revenue	1,51,20,000	—	1,51,20,000
40	Water Supply	Revenue	5,30,000	—	5,30,000
		Capital	30,00,00,000	—	30,00,00,000
41	Other expenditure pertaining to Health and Family Welfare Department.	Revenue	1,000	1,77,000	1,78,000
		Capital	1,28,30,000	—	1,28,30,000
42	Home Department	Revenue	75,21,000	2,000	75,23,000
43	Police	Revenue	46,27,07,000	1,69,84,000	47,96,91,000
44	Jails	Revenue	2,63,00,000	—	2,63,00,000
45	Transport	Revenue	6,25,50,000	—	6,25,50,000
46	Other expenditure pertaining to Home Department	Revenue	1,13,31,000	5,05,000	1,18,36,000
		Capital	78,96,000	—	78,96,000
47	Industries & Mines Department.	Revenue	13,25,000	—	13,25,000
48	Stationery and Printing	Revenue	1,51,68,000	—	1,51,68,000
49	Industries	Revenue	5,00,000	—	5,00,000
		Capital	2,000	—	2,000
50	Mines and Minerals	Revenue	—	37,000	37,000
51	Other expenditure pertaining to Industries and Mines Department.	Revenue	—	30,000	30,000
		Capital	29,28,000	—	29,28,000
52	Information, Broadcasting and Tourism Department	Revenue	2,25,000	—	2,25,000
53	Information and Publicity	Revenue	—	—	—
54	Tourism	Revenue	—	—	—
		Capital	—	—	—



No. of Vote/ Appropriation	Services and Purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
55	Other expenditure pertaining to Information, Broadcasting and Tourism Department.	Revenue 12,25,000 Capital 12,70,000	— —	12,25,000 12,70,000
56	Labour and Employment Department	Revenue 14,68,000	—	14,68,000
57	Labour and Employment	Revenue 4,17,08,000 Capital —	3,65,000 —	4,20,73,000 —
58	Other expenditure pertaining to Labour and Employment Department	Capital 5,30,000	—	5,30,000
59	Legal Department	Revenue 19,00,000 Capital —	— —	19,00,000 —
60	Administration of Justice	Revenue 2,97,34,000	1,98,75,000	4,96,09,000
61	Other expenditure pertaining to Legal Department	Revenue — Capital 26,08,000	— —	— 26,08,000
62	Legislative and Parliamentary Affairs Department	Revenue 1,000	—	1,000
63	Other expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital 1,14,000	—	1,14,000
64	Narmada and Water Resources Department	Revenue 16,30,000	—	16,30,000
65	Narmada Development Scheme	Capital 95,00,00,000	—	95,00,00,000
66	Irrigation and Soil Conservation	Revenue 9,14,60,000 Capital 80,30,00,000	1,13,29,000 3,04,65,000	10,27,89,000 83,34,65,000
67	Other expenditure pertaining to Narmada and Water Resources Department	Revenue — Capital 1,13,32,000	6,56,75,000 —	6,56,75,000 1,13,32,000



No. of Vote/ Appropriation	Services and Purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
68	Panchayats and Rural Housing Department	Revenue	18,16,000	—	18,16,000
69	Community Development	Revenue	9,64,82,000	—	9,64,82,000
70	Rural Housing	Revenue	27,90,000	13,19,02,000	13,46,92,000
		Capital	—	—	—
71	Compensation and Assignments	Revenue	3,54,87,000	—	3,54,87,000
72	Other expenditure pertaining to Panchayats and Rural Housing Department.	Revenue	8,10,61,000	—	8,10,61,000
		Capital	1,28,77,000	—	1,28,77,000
73	Fisheries	Revenue	3,68,51,000	—	3,68,51,000
		Capital	2,02,00,000	—	2,02,00,000
74	Other expenditure pertaining to Ports and Fisheries Department	Revenue	3,41,000	—	3,41,000
		Capital	8,54,000	—	8,54,000
75	Revenue Department	Revenue	48,28,000	—	48,28,000
76	Tax Collection Charges (Revenue Department)	Revenue	73,22,000	19,04,000	92,26,000
77	District Administration	Revenue	23,12,78,000	—	23,12,78,000
78	Relief on Account of Natural Calamities	Revenue	25,00,00,000	—	25,00,00,000
		Capital	36,25,000	—	36,25,000
79	Dang District	Revenue	1,80,64,000	—	1,80,64,000
80	Compensation and Assignments.	Revenue	5,46,25,000	—	5,46,25,000
		Capital	—	—	—
81	Other expenditure pertaining to Revenue Department	Revenue	8,16,000	—	8,16,000
		Capital	1,17,08,000	—	1,17,08,000



No. of Vote/ Appropriation	Services and Purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
82	Roads and Buildings Department	Revenue 11,20,000	—	11,20,000
83	Non-Residential Buildings	Revenue 7,67,92,000 Capital 1,000	22,84,000 —	7,90,76,000 1,000
84	Residential Buildings	Revenue 1,66,55,000 Capital —	— —	1,66,55,000
85	Roads and Bridges	Revenue 32,51,81,000 Capital 26,08,61,000	50,15,000 11,56,000	33,01,96,000 26,20,17,000
86	Gujarat Capital Construction Scheme	Revenue 36,00,000 Capital 18,00,000	— 9,12,000	36,00,000 27,12,000
87	Other expenditure pertaining to Roads and Building Department	Revenue 1,86,30,000 Capital 3,52,77,000	1,10,26,000 —	2,96,56,000 3,52,77,000
88	Social Welfare and Tribal Development Department	Revenue 12,30,000	—	12,30,000
89	State Excise	Revenue 24,00,000	—	24,00,000
90	Social Security and Welfare	Revenue 15,85,74,000 Capital —	— —	15,85,74,000 —
91	Welfare of Scheduled Tribes	Revenue 1,000 Capital —	— —	1,000 —
92	Other expenditure pertaining to Social Welfare Department	Capital 28,76,000	—	28,76,000
93	Special Component Plan for Scheduled Castes	Revenue — Capital 1,56,44,000	— —	— 1,56,44,000
94	Tribal Area Sub Plan	Revenue 26,61,03,000 Capital 15,37,97,000	11,14,000 5,88,000	26,72,17,000 15,43,85,000

No. of Vote/ Appropriation	Services and Purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
95	Urban Development and Urban Housing Department	Revenue	—	—	—
96	Urban Housing	Revenue	5,00,30,000	2,96,00,000	7,96,30,000
		Capital	21,05,88,000	—	21,05,88,000
97	Urban Development	Revenue	9,75,30,000	—	9,75,30,000
		Capital	—	—	—
98	Compensation, Assignment and Tax Collection Charges	Revenue	8,00,00,000	20,00,00,000	28,00,00,000
99	Other expenditure pertaining to Urban Development and Urban Housing Department	Revenue	—	—	—
		Capital	41,86,000	—	41,86,000
100	Youth Services and Cultural Activities Department	Revenue	2,15,000	—	2,15,000
101	Youth Services and Cultural Activities	Revenue	82,64,000	—	82,64,000
102	Other expenditure pertaining to Youth Services and Cultural Activities Department	Capital	6,15,000	—	6,15,000
Total :		Revenue	12,54,51,04,000	85,73,55,000	13,40,24,59,000
		Capital	8,37,17,24,000	10,89,53,000	8,48,06,77,000
Grand Total :			20,91,68,28,000	96,63,08,000	21,88,31,36,000

**STATEMENT OF OBJECTS AND REASONS**

This Bill is introduced in pursuance of article 204 of the Constitution of India read with article 205 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the supplementary expenditure on certain services and purposes in relation to the financial year ending on the thirty-first day of March, 1997.

The amounts are shown below :—

(a) Revenue Expenditure	Rs.	1340,24,59,000
(b) Capital Expenditure	Rs.	848,06,77,000
Total...	Rs.	2188,31,36,000

Dated the 13th March, 1997.

**BABUBHAI MEGHJI SHAH**

By order and in the name of the Governor of Gujarat,

**KUM. H. K. JHAVERI,**

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 14th March, 1997.





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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE BOMBAY STAMP (GUJARAT SECOND AMENDMENT)  
 BILL, 1997.**

**GUJARAT BILL NO. 17 OF 1997.**

**A BILL**

*further to amend the Bombay Stamp Act, 1958.*

It is hereby enacted in the Forty-eighth Year of the Republic of India  
 as follows :—

1. (1) This Act may be called the Bombay Stamp (Gujarat Second Amendment) Act, 1997. Short title and commencement.

(2) It shall come into force on the 1st April, 1997.

Bom. LX of 1958. 2. In the Bombay Stamp Act, 1958 (hereinafter referred to as "the principal Act"), in Schedule I,— Amendment of Schedule I of Bom. LX of 1958.

(1) for article 6, the following shall be substituted, namely —

“6. AGREEMENT OR MEMORANDUM OF AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN, PLEDGE OR HYPOTHECATION, that is to say any instrument evidencing an agreement or memorandum of agreement relating to—

(1) the deposit of title deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), where such deposit has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—

(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement,—

(i) where the amount of loan or debt does not exceed Rs. 15,00,000 Fifty paise for every hundred rupees or part thereof.

(ii) where it exceeds Rs. 15,00,000 Subject to maximum of one lakh rupees, one rupee for every hundred rupees or part thereof.

(b) if such loan or debt is repayable not more than three months from the date of such instrument Half the duty payable under sub-clause (a).

(2) the pawn, pledge or hypothecation of movable property, where such pawn, pledge or hypothecation has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—

(i) where the amount of loan or debt does not exceed Rs. 5,00,000 Nil.

(ii) where it exceeds Rs. 5,00,000 One hundred rupees for every one lakh rupees or part thereof.”;

(2) in article 20,—

(i) after clause (c), the following clause shall be inserted, namely :—

"(d) Conveyance, so far as it relates to amalgamation of companies under the order of the High Court under section 394 of the Companies Act, 1956.

Two rupees for every hundred rupees or part thereof of the market value of the property which is the subject matter of such conveyance."; 1956.

(ii) after *Explanation H*, the following *Explanation* shall be inserted, namely :—

"*EXPLANATION. III.* — For the purposes of clause (d), the market value of the property shall be deemed to be the amount of total value of shares issued or allotted by the transferee company, either in exchange or otherwise, and the amount of consideration, if any, paid for such amalgamation.";

(3) in article 30, after clause (c), the following clause shall be inserted, namely :—

"(d) where the lease relates to movable property.

Two rupees for every hundred rupees or part thereof on the amount of average annual rent plus the total amount of fine or premium or money advanced or to be advanced, irrespective of the period for which such lease or agreement to lease is executed."



**STATEMENT OF OBJECTS AND REASONS**

This Bill seeks to amend the Bombay Stamp Act, 1958 with a view to giving effect to the proposal contained in the Budget Speech of the Finance Minister in the Legislative Assembly on the 21st February, 1997.

Dated the 20th March, 1997.

ATMARAM PATEL

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 20th March, 1997.

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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE GUJARAT STATE TAX ON PROFESSIONS,  
 TRADES, CALLINGS AND EMPLOYMENTS  
 (AMENDMENT) BILL, 1997.**

**GUJARAT BILL NO. 18 OF 1997.**

**A BILL**

*further to amend the Gujarat State Tax on Professions, Trades,  
 Callings and Employments Act, 1976.*

It is hereby enacted in the Forty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 1997.

Short title  
and  
commence-  
ment.

(2) It shall come into force on the 1st April, 1997.

President's Act  
No. 11 of 1976.

2. In the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976, in Schedule I,—

Amendment of  
Schedule I to  
President's  
Act No. 11  
of 1976.

(1) in entry 1, for items (i) to (iv), the following items shall be substituted, namely :—

"(i) less than Rs. 3,000	Nil.
(ii) Rs. 3,000 or more but less than Rs. 6,000	Rs. 20 per month.
(iii) Rs. 6,000 or more but less than Rs. 9,000	Rs. 40 per month.
(iv) Rs. 9,000 or more but less than Rs. 12,000	Rs. 60 per month.
(v) Rs. 12,000 or more	Rs. 80 per month.;"

(2) in entry 2,—

(a) in clause (1), in columns 2 and 3, for the portion beginning with the words "where the standing in the profession" and ending with the letters, figures and words "Rs. 250 every year", the following shall be substituted, namely:—

"(A) where the person is not liable to income tax and whose standing in the profession or calling mentioned above is—

(i) upto five years	Nil
(ii) more than five years but not more than ten years	Rs. 150 every year.
(iii) more than ten years	Rs. 500 every year.
(B) where the person is liable to income tax and engaged in the profession or calling mentioned above	Rs 1,000 every year.;"

(b) in clause (2), for the letters and figures "Rs. 10,000", the letters and figures "Rs. 36,000" shall be substituted;

(3) in entry 3,—

(a) in items (i), (ii), (iii) and (iv), in column 3, for the letters and figures "Rs. 250", the letters and figures "Rs. 500" shall be substituted;

(b) for item (v), the following shall be substituted, namely :—

"(v) Companies registered under the Companies Act, 1956 and engaged in any profession, trade or calling—

(a) Private Limited Companies	Rs. 500 every year.
(b) Public Limited Companies	Rs. 1,000 every year.;"



(c) in items (vi) and (vii), in column 3, for the letters and figures "Rs. 250", the letters and figures "Rs. 1,000" shall be substituted;

(d) in items (ix) and (x), in column 3, for the letters and figures "Rs. 250", the letters and figures "Rs. 500" shall be substituted;.

(4) in entry 4,—

(a) in column 3, for the letters and figures "Rs. 250", the letters and figures "Rs. 500" shall be substituted;

(b) in the Exemptions,—

(i) in para (1), for the words "one lakh of rupees", the words "five lakhs of rupees" shall be substituted;

(ii) in para (2), for the words "ten thousand rupees", the words "thirty-six thousand rupees" shall be substituted;

(5) in entry 5, in column 3, for the letters and figures "Rs. 250", the letters and figures "Rs. 500" shall be substituted;

(6) in entry 7, for items (i) to (iii), the following items shall be substituted, namely :-

(i) not more than Rs. 2,50,000	Nil.
(ii) more than Rs. 2,50,000 but not more than Rs. 5,00,000	Rs. 250 every year.
(iii) more than Rs. 5,00,000 but not more than Rs. 10,00,000	Rs. 500 every year.
(iv) more than Rs. 10,00,000	Rs. 1,000 every year.;

(7) in entry 8, in column 3, for the letters and figures "Rs. 250", the letters and figures "Rs. 1,000" shall be substituted;

(8) in entry 9,—

(a) in item (i), in column 3, for the letters and figures "Rs. 250", the letters and figures "Rs. 500" shall be substituted;

(b) in item (ii), in column 3, for the letters and figures "Rs. 200", the letters and figures "Rs. 250" shall be substituted;

(9) in entry 10, in column 3, for the letters and figures "Rs. 150", the letters and figures "Rs. 250" shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 with a view to giving effect to the proposal contained in the Budget Speech of the Finance Minister in the Legislative Assembly on the 21st February, 1997.

Dated the 20th March, 1997.

BABUBHAI MEGHJI SHAH.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 20th March, 1997.



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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE BOMBAY MOTOR VEHICLES TAX (GUJARAT  
 AMENDMENT) BILL, 1997.**

**GUJARAT BILL NO. 19 OF 1997.**

**A BILL**

*further to amend the Bombay Motor Vehicles Tax Act, 1958.*

It is hereby enacted in the Forty-eighth Year of the Republic of India  
 as follows:—

1. (1) This Act may be called the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 1997. Short title and  
commence-  
ment

(2) It shall come into force on the 1st April, 1997.

Bom. LXV of  
1958.

2. In the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as "the principal Act"), in the First Schedule, in Part I, under the heading "A. Motor vehicles fitted solely with pneumatic tyres", for clause III, the following shall be substituted, namely:— Amendment  
of First  
Schedule  
to  
Bom. LXV of  
1958.



"III. Motor vehicles (including tricycles) used for the carriage of goods or materials —

(a)	Vehicles the registered laden weight of which does not exceed 750 KG	800
(b)	Vehicles the registered laden weight of which exceeds 750 KG but does not exceed 1500 KG	1200
(c)	Vehicles the registered laden weight of which exceeds 1500 KG but does not exceed 3000 KG	1900
(d)	Vehicles the registered laden weight of which exceeds 3000 KG but does not exceed 4500 KG	2100
(e)	Vehicles the registered laden weight of which exceeds 4500 KG but does not exceed 6000 KG	3100
(f)	Vehicles the registered laden weight of which exceeds 6000 KG but does not exceed 7500 KG	3800
(g)	Vehicles the registered laden weight of which exceeds 7500 KG	The rate specified in (f) above <i>plus</i> Rs. 275 for every 250 KG or part thereof in excess of 7500 KG :

Provided that where a tax on motor vehicles is levied by any local authority the maximum annual rates of tax under this clause for motor vehicles registered for use solely within the limits of such local authority shall,—

(i) in cases where such motor vehicles are wholly or partially exempted by such local authority from the tax levied by such local authority, be the rates specified in this clause;

(ii) in any other case, be two-thirds of the rates so specified."

3. In the principal Act, in the Second Schedule, in Part-I, under the heading "A. Motor vehicles fitted solely with pneumatic tyres", in clause III, for entries (a), (b) and (c), the following shall be substituted, namely:—

Amendment  
of Second  
Schedule to  
Bom. LXV of  
1958.

"(a) Vehicles not exceeding 750 KG in weight, unladen. 11000

(b) Vehicles exceeding 750 KG in weight, unladen, but not exceeding 1000 KG in weight, unladen. 16000

(c) Vehicles exceeding 1000 KG in weight, unladen, but not exceeding 1250 KG in weight, unladen. 21000

(d) Vehicles exceeding 1250 KG in weight, unladen, but not exceeding 1500 KG in weight, unladen. 24000

(e) Vehicles exceeding 1500 KG in weight, unladen, but not exceeding 2250 KG in weight, unladen. 30000."

4. In the principal Act, in the Third Schedule, in Part-I, under the heading "A. Motor vehicles fitted solely with pneumatic tyres", for clause III, the following shall be substituted, namely:—

Amendment  
of Third  
Schedule to  
Bom. LXV of  
1958.

"III. Motor vehicles other than those liable to tax under the foregoing provisions of this Schedule:—

(i) owned by an individual, a local authority, a public trust, a University, or an educational or social welfare institution —

## Maximum rate of lump sum tax.

		Vehicles not exceeding 750KG in weight, unladen.	Vehicles exceeding 750 KG in weight, unladen but not exceeding 1000KG in weight, unladen.	Vehicles exceeding 1000KG in weight, unladen but not exceeding 1250KG in weight, unladen.	Vehicles exceeding 1250KG in weight, unladen but not exceeding 1500KG in weight, unladen.	Vehicles exceeding 1500KG in weight, unladen but not exceeding 2250KG in weight, unladen.
		Rs. (a)	Rs. (b)	Rs. (c)	Rs. (d)	Rs. (e)
If the vehicle is already registered and its age from the month of registration is—						
(i)	not more than 2 years.	10450	15200	19950	22800	28500
(ii)	more than 2 years but not more than 3 years.	9900	14400	18900	21600	27000
(iii)	more than 3 years but not more than 4 years.	9350	13600	17850	20400	25500
(iv)	more than 4 years but not more than 5 years.	8800	12800	16800	19200	24000
(v)	more than 5 years but not more than 6 years.	8250	12000	15750	18000	22500
(vi)	more than 6 years but not more than 7 years.	7700	11200	14700	16800	21000
(vii)	more than 7 years but not more than 8 years.	7150	10400	13650	15600	19500
(viii)	more than 8 years but not more than 9 years.	6600	9600	12600	14400	18000



	(a)	(b)	(c)	(d)	(e)
(ix) more than 9 years but not more than 10 years.	6050	8800	11550	13200	16500
(x) more than 10 years but not more than 11 years.	5500	8000	10500	12000	15000
(xi) more than 11 years but not more than 12 years.	4950	7200	9450	10800	13500
(xii) more than 12 years but not more than 13 years.	4400	6400	8400	9600	12000
(xiii) more than 13 years but not more than 14 years.	3850	5600	7350	8400	10500
(xiv) more than 14 years.	3300	4800	6300	7200	9000
(ii) owned by a person other than an individual, a local authority, a public trust, a University or an educational or social welfare institution.	Twice the rates specified above.				

## STATEMENT OF OBJECTS AND REASONS.

Under the existing laws, the motor vehicle tax is levied on motor vehicles under the Bombay Motor Vehicles Tax Act, 1958 and the goods tax is levied under the Gujarat Carriage of Goods Taxation Act, 1962 on goods vehicles. In the Budget Speech of the Finance Minister in the Legislative Assembly on the 21st February, 1997, it is proposed to merge the goods tax levied on goods vehicles into motor vehicles tax on such vehicles and to revise the rates of the tax on motor vehicles. With a view to giving effect to the aforesaid Budget proposal, it is proposed to increase the maximum rate of tax on such motor vehicles as specified in Schedules I, II and III to the Bombay Motor Vehicles Tax Act, 1958.

This Bill seeks to achieve the aforesaid objects.

Dated the 20th March, 1997

MANSINH CHAUHAN

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 20th March, 1997.



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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE GUJARAT CARRIAGE OF GOODS TAXATION (REPEAL)**  
**BILL, 1997.**

**GUJARAT BILL NO. 20 OF 1997.**

**A BILL**

*to repeal the Gujarat Carriage of Goods Taxation Act, 1962.*

It is hereby enacted in the Forty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Carriage of Goods Taxation Short title.  
 (Repeal) Act, 1997.

2. On and from the 1st April, 1997, the Gujarat Carriage of Goods  
 Taxation Act, 1962 shall stand repealed.

Guj. XXXIII  
 of 1962.

Repeal of  
 Guj. XXXIII  
 of 1962.



**STATEMENT OF OBJECTS AND REASONS**

In the Budget Speech of the Finance Minister in the Legislative Assembly on the 21st February, 1997, it is proposed to merge the goods tax levied on the goods vehicles under the Gujarat Carriage of Goods Taxation Act, 1962 into motor vehicles tax leviable under the Bombay Motor Vehicles Tax Act, 1958 on such vehicles. On the merger of such tax, it is not necessary to continue the operation of the said Act of 1962.

This Bill, therefore, seeks to repeal the Gujarat Carriage of Goods Taxation Act, 1962 to achieve the aforesaid object.

Dated the 20th March, 1997.

MANSINH CHAUHAN.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 20th March, 1997.

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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE GUJARAT ENTERTAINMENTS TAX (AMENDMENT) BILL, 1997.**

**GUJARAT BILL NO. 21 OF 1997.**

**A BILL**

*further to amend the Gujarat Entertainments Tax Act, 1977.*

It is hereby enacted in the Forty-eighth Year of the Republic of India as follows :—

(1) This Act may be called the Gujarat Entertainments Tax (Amendment) Act, 1997. Short title and commencement

2) It shall come into force on the 1st April, 1997.

3) In the Gujarat Entertainments Tax Act, 1977 (hereinafter referred to as "the principal Act"), in section 2, for clause (f), the following shall be substituted, namely :— Amendment of section 2 of Act, 1977

"(f) 'local area' means—

(i) a City as defined in clause (8) of section 2 of the Bombay Provincial Municipal Corporations Act, 1949;

Bom. LX of 1949

(ii) a municipal borough as defined in clause (13) of section 2 of the <sup>Guj. 34 of 1964</sup> Gujarat Municipalities Act, 1963;

(iii) a village as specified by the Governor under clause (g) of article 243 of the Constitution of India;

(iv) a taluka or a district as defined in clause (25) or, as the case may be, <sup>Guj. 18 of 1993</sup> clause (5) of section 2 of the Gujarat Panchayats Act, 1993;

(v) a cantonment as constituted for the time being under the Cantonments <sup>2 of 1924</sup> Act, 1924."

Amendment of  
section 6 of  
Guj. 16 of  
1977.

3. In the principal Act, in section 6, —

(1) in sub-section (3), for the words, brackets and figure "in sub-section (5)", the words and letter "in Schedule I" shall be substituted;

(2) in sub-section (5), in the *Explanation*, for clause (i), the following shall be substituted, namely:—

"(i) the expression "specified area" means a local area, the population of which is within the limits shown in column 3 of Schedule I against any of the serial numbers mentioned in column 1 thereof :

Provided that where any specified area is within a radius of five kilometres from any other local area, the population of which is more than three lakhs, such specified area shall not be construed to be a specified area for the purpose of this section."

Amendment of  
section 6B of  
Guj. 16 of  
1977.

4. In the principal Act, in section 6B, —

(1) in sub-section (1), for the heading "For other area", the heading "For the area other than urban area and rural area" shall be substituted;

(2) in the *Explanation*, —

(i) for clause (a), the following shall be substituted, namely :—

"(a) the expression "urban area" means—

(i) a City as defined in clause (8) of section 2 of the Bombay <sup>Bom. LIX of 1949</sup> Provincial Municipal Corporations Act, 1949;

(ii) a municipal borough as defined in clause (13) of section 2 of <sup>Guj. 34 of 1964</sup> the Gujarat Municipalities Act, 1963;

(iii) a cantonment as constituted for the time being under the <sup>2 of 1924</sup> Cantonments Act, 1924."

(ii) for clause (b), the following shall be substituted, namely :—

"(b) the expression "rural area" means the area of a village specified by the Governor under clause (g) of article 243 of the Constitution of India :



Bom. LIX of 1949: 34 of 1964: 34 of

Provided that where any area of a village is within a radius of five kilometres from any City as defined in clause (8) of section 2 of the Bombay Provincial Municipal Corporations Act, 1949 or from any municipal borough as defined in clause (13) of section 2 of the Gujarat Municipalities Act, 1963, such area shall not be construed as rural area."

5. In the principal Act, for Schedule I, the following shall be substituted, namely:—

Substitution of Schedule I to Guj. 16 of 1977.

### "SCHEDULE — I

( See section 6 )

#### *The rates of tax.*

Sr. No.	Class of specified area	Limit of population	Rate of tax for cinema (other than touring cinema)	Rate of tax for touring cinema
(1)	(2)	(3)	(4)	(5)
1.	A	1 to 15,000	Twenty per cent. of gross tax collection of a show multiplied by twelve.	Twenty per cent. of gross tax collection of a show multiplied by seven.
2.	B	15,001 to 50,000	Thirty per cent. of gross tax collection of a show multiplied by fourteen.	Thirty per cent. of gross tax collection of a show multiplied by seven.
3.	C	50,001 to 1,00,000	Thirty-five per cent. of gross tax collection of a show multiplied by twenty-four.	Thirty-five per cent. of gross tax collection of a show multiplied by seven.
4.	D	1,00,001 to 3,00,000	Forty per cent. of gross tax collection of a show multiplied by twenty-six.	Thirty-five per cent. of gross tax collection of a show multiplied by seven.

**Explanation.**—The population in relation to the specified area means the population thereof as ascertained at the last preceding census of which the relevant figures have been published."

**STATEMENT OF OBJECTS AND REASONS**

With a view to giving effect to the proposal contained in the Budget Speech of the Finance Minister in the Legislative Assembly on the 21st February, 1997, it is proposed to amend section 6B of the Gujarat Entertainments Tax Act, 1977.

Under the existing provisions of clause (i) of the Explanation to section 6 of the Act, the specified area having lesser population is clubbed with the specified area having larger population for the purpose of tax. In view of the representations in this regard, the said clause (i) of the Explanation is proposed to be amended so that the tax in the specified area would be levied according to the actual population of that area without clubbing with the areas having larger population. However, this benefit is not available to any specified area which is within a radius of five kilometres from any other local area, the population of which exceeds three lakhs.

This Bill seeks to achieve the aforesaid object.

Dated the 20th March, 1997.

SHANKERSINH WAGHELA.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 20th March, 1997.

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**The Gujarat Government Gazette**  
**EXTRAORDINARY**  
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Separate paging is given to this Part in order that it  
 may be filed as a Separate Compilation.

**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE GUJARAT SALES TAX (AMENDMENT) BILL, 1997.**

**GUJARAT BILL NO. 22 OF 1997.**

*A BILL*

*further to amend the Gujarat Sales Tax Act, 1969.*

It is hereby enacted in the Forty-eighth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Sales Tax (Amendment) Act, 1997. Short title and commencement.
- (2) It shall come into force on the 1st April, 1997.

2. In the Gujarat Sales Tax Act, 1969 (hereinafter referred to as "the principal Act"), in section 2,—

Amendment of section 2 of Guj. 1 of 1970.

- (1) for clause (21), the following clause shall be substituted, namely :—

"(21) "prohibited goods" means the goods described in entries 1, 2, 4, 5, 12, 13A, 13B, 15, 16A, 17, 19, 20, 21, 22, 22A, 23, 25, 27, 32, 33, 34, 35, 36, 37, 38, 40, 42, 44, 45, 46, 54, 55, 57, 59, 60, 61A and 62 in Schedule II, Part A, or in entries 1, 2 and 7 in Schedule II, Part B and such other goods



as the State Government may, from time to time, by notification in the *Official Gazette*, specify.";

(2) in clause (32), the words "turnover tax" shall be deleted.

Deletion of  
section 10A of  
Guj. 1 of 1970.

3. In the principal Act, section 10A shall be deleted.

Amendment of  
section 11 of  
Guj. 1 of 1970.

4. In the principal Act, in section 11,—

(i) for the figures, word and letter "7, 8 or 10A", the figures and word "7 or 8" shall be substituted;

(ii) in the marginal note, for the figures, word and letter "7, 8 or 10A", the figures and word "7 or 8" shall be substituted.

Amendment of  
section 15A of  
Guj. 1 of 1970.

5. In the principal Act, in section 15A, for the figures and words "2.4 paise in the rupee", the words "two paise in the rupee" shall be substituted.

Amendment of  
section 15B of  
Guj. 1 of 1970.

6. In the principal Act, in section 15B, for the figures and words "4.8 paise in the rupee", the words "six paise in the rupee" shall be substituted.

Amendment of  
section 46 of  
Guj. 1 of 1970.

7. In the principal Act, in section 46, in sub-section (1), for the words, figures and letter "section 10A or section 56 or both" occurring at two places, the word and figures "section 56" shall be substituted.

Insertion of  
new section  
55BB in Guj. 1  
of 1970.

8. In the principal Act, after section 55B, the following new section shall be inserted, namely :—

Composition of  
tax on lottery  
tickets.

"55BB. The Commissioner may, subject to such conditions as may be prescribed, permit any dealer engaged in sale of lottery tickets to pay at his option in lieu of the amount of tax leviable from him on the sale of lottery tickets under section 7 in respect of a month, a lump sum by way of composition at the rate of two lakhs fifty thousand rupees per lottery scheme in a month or part thereof."

Insertion of  
new Chapter in  
Guj. 1 of 1970.

9. In the principal Act, after Chapter V, the following new Chapter shall be inserted, namely:—

#### "CHAPTER V A DEDUCTION AT SOURCE

Definitions.

57A. For the purposes of this Chapter, unless the context otherwise requires,—

(a) "contractor" or "sub-contractor" means the dealer referred to in sub-clause (f) of clause (10) of section 2;

(b) "specified sale" means the sale referred to in sub-clause (c) of clause (28) of section 2;

(c) "specified sale price" means the sale price referred to in sub-clause (b) of clause (29) of section 2; and

(d) "specified works contract" means a works contract, the specified sale price of which exceeds ten lakh rupees.

57B. (1) Notwithstanding that the assessment in respect of the specified sales is to be made for a year or part of a year, the tax on such sales shall be payable at source in accordance with the provisions of this section.

Deduction at source in certain cases.

(2) Nothing in sub-section (1) shall prejudice the levy of tax on the specified sales under sections 7 and 8.

(3)(a) Any person responsible for paying specified sale price to a contractor for carrying out any work in pursuance of a specified works contract, shall at the time of payment of the whole or part of the specified sale price, deduct from such price an amount equal to two paise in a rupee of such payment as a tax on specified sales.

(b) Any person being a contractor responsible for paying specified sale price to a sub-contractor in pursuance of a contract with the sub-contractor for carrying out the whole or part of the work undertaken by the contractor in respect of a specified works contract, shall at the time of payment of the whole or part of the specified sale price, deduct from such price an amount equal to two paise in a rupee of such payment as a tax on specified sales.

(4) (a) Where the Commissioner is satisfied that the contractor or the sub-contractor is not liable to pay tax under this Act, on specified sales involved in any specified works contract, he shall, on an application made by the contractor or the sub-contractor in this behalf, give him a certificate to that effect in such form as may be prescribed.

(b) Where any such certificate is given under clause (a), the person responsible for paying any specified sale price under clause (a) or clause (b) of sub-section (3) shall not deduct any amount as tax in respect of the specified works contract mentioned in the certificate.

(5) Any amount deducted as tax in accordance with the provisions of sub-section (3), shall be deemed to be an amount received by the contractor or the sub-contractor as part of the specified sale price in pursuance of the specified works contract.

(6) Any person deducting the amount as tax in accordance with the provisions of sub-section (3) shall—

(a) pay such amount into a Government Treasury within ten days from the date of deduction of the amount,

(b) obtain a treasury receipt therefor, and

(c) furnish a copy of such receipt to the contractor or, as the case may be, the sub-contractor.

(7) Every person deducting the amount as tax in accordance with the provisions of sub-section (3) shall, at the time of payment of the whole or part of the specified sale price, furnish to the contractor or, as the case may be, the sub-contractor a certificate specifying the amount so deducted and such other particulars as may be prescribed.



(8) Any deduction made in accordance with the provisions of sub-section (3) and paid into the Government Treasury under sub-section (6) shall be treated as a payment of tax or, as the case may be, lump sum by way of composition under section 55A, on behalf of the contractor or, as the case may be, the sub-contractor, and, on the production of a certificate furnished to him under sub-section (7), alongwith a copy of a treasury receipt given to him under sub-section (6), credit shall be given to him for the amount so deducted in the assessment of tax, if any, made under this Act for the relevant year or, as the case may be, in the payment of the lump sum.

(9) Where an amount as tax on specified sales has not been deducted in accordance with the provisions of this section, the tax on specified sales shall be payable by the contractor or, as the case may be, the sub-contractor directly.

(10) Where any amount deducted under sub-section (3) remains unpaid after expiry of the time specified in sub-section (6), such amount shall be recoverable as an arrear of land revenue and the sales tax authorities shall, for the purpose of effecting recovery of the amount, exercise the powers conferred on them under section 47A.

(11) (a) If any person does not deduct an amount under sub-section (3) or after deducting the amount under that sub-section, fails to pay the same into the Government Treasury under sub-section (6) within the time specified therein, he shall be liable to pay such penalty not exceeding twenty-five per cent. of the amount required to be deducted by him under sub-section (3) as may be imposed by the Commissioner.

(b) The Commissioner shall, for the purpose of imposing penalty under clause (a), exercise the same powers as are conferred on him under sub-sections (3) and (4) of section 46 in relation to imposing of penalty under that section.

(12) Where a person deducting the amount of tax in accordance with the provisions of sub-section (3) does not pay the amount so deducted into the Government Treasury under sub-section (6) within the time specified therein, there shall be paid by such person, in addition to the penalty imposed on him under sub-section (11), for the period commencing on the date of expiry of the time specified in sub-section (6) and ending on the date of payment of the amount into the Government Treasury, simple interest at the rate of twenty-four per cent. per annum on the amount not so paid or any less amount remaining unpaid during that period."

Amendment of  
Schedule I to  
Guj. 1 of 1970.

10. In the principal Act, in Schedule I, —

(1) after the entry at serial No. 74, the following new entry shall be inserted, namely:—

1	2	3
"74A	Rain coat	* * *

(2) in the entry at serial No. 93, in column 2, for the brackets and words "(other than aerated, mineral, medicinal or tonic water)", the brackets, words figures and letter "(other than the goods specified in entries at serial Nos. 65 and 154 in Schedule II, Part A)" shall be substituted.



**11. In the principal Act, in Schedule II, in Part A,—**

Amendment  
of Schedule II,  
Part- A to Guj.  
1 of 1970.

(1) in the entry at serial No.11, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(2) in the entry at serial No.12, in columns 3 and 4, for the words "One paise in the rupee", the words "Two paise in the rupee" shall be substituted;

(3) in the entry at serial No. 16, in columns 3 and 4, for the words "Ten paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(4) in the entry at serial No. 18, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(5) in the entry at serial No. 20, in columns 3 and 4, for the words "Ten paise in the rupee", the words "Twelve paise in the rupee" shall be substituted;

(6) in the entry at serial No. 21, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(7) in the entry at serial No. 23, in columns 3 and 4, for the words "Five paise in the rupee", the words "Two paise in the rupee" shall be substituted;

(8) in the entry at serial No. 25, in columns 3 and 4, for the words "Five paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(9) in the entry at serial No. 26, in columns 3 and 4, for the words "Ten paise in the rupee", the words "Twelve paise in the rupee" shall be substituted;

(10) in the entry at serial No. 29, in columns 3 and 4, for the words "Five paise in the rupee", the words "Two paise in the rupee" shall be substituted;

(11) in the entry at serial No. 30, in columns 3 and 4, for the words "Five paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(12) in the entry at serial No. 32, in columns 3 and 4, for the words "Ten paise in the rupee", the words "Twelve paise in the rupee" shall be substituted;

(13) in the entry at serial No. 36, in columns 3 and 4, for the words "Six paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(14) in the entry at serial No. 38, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(15) in the entry at serial No. 39, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(16) in the entry at serial No. 40, in columns 3 and 4, for the words "Eighteen paise in the rupee", the words "Twenty paise in the rupee" shall be substituted;

(17) in the entry at serial No. 42, in sub-entry (ii), in columns 3 and 4, for the words "Five paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(18) in the entry at serial No. 43, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(19) in the entry at serial No. 44, in sub-entry (A), in column 2, for item (xvi), the following item shall be substituted, namely :—

"(xvi) polythene packing materials, plastic coated paper, biaxially oriented polypropylene (B.O.P.P.) and aluminium coated paper ;",

(20) in the entry at serial No. 47, in columns 3 and 4, for the words "Ten paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(21) in the entry at serial No. 49, in sub-entry (2), in columns 3 and 4, for the words "Five paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(22) in the entries at serial Nos. 51, 52 and 53, in columns 3 and 4, for the words "Five paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(23) in the entry at serial No. 54, in columns 3 and 4, for the words "Five paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(24) in the entry at serial No. 55, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(25) in the entry at serial No. 57, in columns 3 and 4, for the words "Five paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(26) in the entry at serial No. 58, in columns 3 and 4, for the words "Five paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(27) in the entry at serial No. 60, in columns 3 and 4, for the words "Five paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(28) in the entry at serial No. 62, in columns 3 and 4, for the words "Five paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(29) in the entry at serial No. 64, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(30) for entry 65, the following entry shall be substituted, namely:-

1	2	3	4
"65.	Aerated water and all non-alcoholic beverages, including fruit juices, squashes, syrups and cordials, when sold in sealed, capsuled or corked bottles or jars, but excluding the goods specified in entry 154 in this Schedule.	Fifteen paise in the rupee.	Fifteen paise in the rupees";

(31) in the entry at serial No. 67, in columns 3 and 4, for the words "Eighteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(32) in the entry at serial No. 69, in columns 3 and 4, for the words "Seventeen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(33) in the entry at serial No. 70, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(34) in the entry at serial No. 72, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(35) in the entry at serial No. 75, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(36) in the entry at serial No. 76, in columns 3 and 4, for the words "Ten paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(37) in the entries at serial Nos. 81, 83 and 84, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(38) in the entry at serial No. 86, in columns 3 and 4, for the words "Ten paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(39) in the entry at serial No. 87, in sub-entry (ii), in columns 3 and 4, for the words "Eighteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(40) in the entry at serial No. 90, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;



(41) in the entry at serial No. 91, in columns 3 and 4, for the words "Ten paise in the rupee", the words "Twelve paise in the rupee" shall be substituted;

(42) in the entry at serial No. 92, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(43) in the entry at serial No. 93, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(44) in the entry at serial No. 94, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(45) in the entry at serial No. 95, in columns 3 and 4, for the words "Eighteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(46) in the entry at serial No. 96,—

(a) for sub-entry (i), the following shall be substituted, namely :—

1	2	3	4
(i) Domestic electrical appliances (whether fitted with or without electric motor such as grinder, mixer, grinder-cum mixer, domestic flour mill, juicers, irons, hair-dryers, washing machines, heaters, hot-plates, toasters, cooking ranges, ovens, vacuum cleaners, and geysers, and components, parts and accessories of any of them.		Fifteen paise in the rupee	Fifteen paise in the rupee"

(b) in sub-entries (ii) and (iii), in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(47) in the entry at serial No. 97, in sub-entry (B), in columns 3 and 4, for the words "Eighteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(48) in the entry at serial No. 98, in columns 3 and 4, for the words "One paise in the rupee", the words "Two paise in the rupee" shall be substituted;

(49) in the entries at serial Nos. 101 and 103, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(50) in the entry at serial No. 104,—

(a) in sub-entry (i), in columns 3 and 4, for the words "Seven paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(b) in sub-entry (ii), in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(51) in the entry at serial No. 105, in columns 3 and 4, for the words "Eighteen paise in the rupee", the words "Twenty paise in the rupee" shall be substituted;

(52) in the entry at serial No. 106, in sub-entry (2), in columns 3 and 4, for the words "Five paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(53) in the entry at serial No. 107, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(54) in the entry at serial No. 108, in columns 3 and 4, for the words "Five paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(55) in the entry at serial No. 112, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(56) in the entries at serial Nos. 113 and 114, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(57) in the entry at serial No. 116, in columns 3 and 4, for the words "Seventeen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(58) after entry 116, the following new entry shall be inserted, namely:—

1	2	3	4
"116A	Iron powder	Four paise in the rupee	Four paise in the rupee";

(59) in the entry at serial No. 117, in columns 3 and 4, for the words "Nineteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(60) in the entry at serial No. 118, in sub-entry (1), in columns 3 and 4, for the words "Seven paise in the rupee", the words "Two paise in the rupee" shall be substituted;

(61) in the entry at serial No. 119, in columns 3 and 4, for the words "Twelve paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(62) in the entry at serial No. 123, in columns 3 and 4, for the words "Seventeen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(63) in the entries at serial Nos. 124 and 125, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in rupee" shall be substituted;

(64) in the entry at serial No. 126, in columns 3 and 4, for the words "Five paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(65) in the entry at serial No. 128, —

(i) in sub- entry (3), in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(ii) in sub- entry (5), in columns 3 and 4, for the words "Five paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(iii) in sub - entry (6), in columns 3 and 4, for the words "Ten paise in the rupee", the words "Twelve paise in the rupee" shall be substituted;

(66) in the entry at serial No. 129, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Two paise in the rupee" shall be substituted;

(67) in the entry at serial No. 130, in columns 3 and 4, for the words "Eighteen paise in the rupee", the words "Twenty paise in the rupee" shall be substituted;

(68) in the entry at serial No. 131, in sub-entries (i), (ii) and (iii), in columns 3 and 4, for the words "Eighteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(69) in the entry at serial No. 132, in columns 3 and 4, for the words "Seventeen paise in the rupee", the words "Twenty paise in the rupee" shall be substituted;

(70) in the entry at serial No. 133, in sub-entries (i) and (iii), in columns 3 and 4, for the words "Ten paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(71) in the entry at serial No. 135,—

(i) in sub-entry (i), in columns 3 and 4, for the words "Nineteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(ii) in sub-entry (ii), in columns 3 and 4, for the words "Seven paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(72) in the entry at serial No. 136, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Six paise in the rupee" shall be substituted;



(73) in the entry at serial No. 137, in columns 3 and 4, for the words "Eighteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(74) in the entry at serial No. 138,—

(i) in sub-entry (i), in columns 3 and 4, for the words "Eighteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(ii) in sub-entry (ii), in columns 3 and 4, for the words "Five paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(75) in the entry at serial No. 139, in columns 3 and 4, for the words "Ten paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(76) in the entry at serial No. 140,—

(i) in sub-entries (i) and (ii), in columns 3 and 4, for the words "Fourteen paise in the rupee" the words "Fifteen paise in the rupee" shall be substituted;

(ii) in sub-entry (iii), in columns 3 and 4, for the words "Eighteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(77) in the entry at serial No. 141, in columns 3 and 4, for the words "Ten paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(78) in the entry at serial No. 142,—

(i) in sub-entry (i), in columns 3 and 4, for the words "One paise in the rupee", the words "Two paise in the rupee" shall be substituted;

(ii) in sub-entry (ii), in columns 3 and 4, for the words "Ten paise in the rupee", the words "Two paise in the rupee" shall be substituted;

(79) in the entry at serial No. 143, in columns 3 and 4, for the words "Five paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(80) in the entry at serial No. 145, in columns 3 and 4, for the words "Five paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(81) the entry at serial No. 146 shall be deleted;

(82) in the entry at serial No. 147, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(83) in the entry at serial No. 148, in columns 3 and 4, for the words "Ten paise in the rupee", the words "Twelve paise in the rupee" shall be substituted;

(84) in the entry at serial No. 149, in columns 3 and 4, for the words "Eighteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(85) in the entry at serial No. 150, in columns 3 and 4, for the words "Five paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(86) for the entry at serial No. 154, the following shall be substituted, namely:—

1	2	3	4
"154.	Soda water, mineral water, purified water, medicinal water, tonic water, distill-battery water, demineralised water and water, when sold under a brand name in sealed, capsuled or corked bottle, jar or pauch.	Twelve paise in the rupee	Twelve paise in the rupee";

(87) in the entry at serial No. 156, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(88) in the entry at serial No. 157, in sub-entries (i) and (ii), in columns 3 and 4, for the words "Eighteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(89) in the entry at serial No. 158, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(90) in the entry at serial No. 159, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(91) in the entries at serial Nos. 160 and 161, in columns 3 and 4, for the words "Five paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(92) in the entry at serial No. 162, in sub-entry (ii), in columns 3 and 4, for the words "Ten paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(93) in the entry at serial No. 163,—

(i) in sub-entry (i), in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(ii) in sub-entry (ii), in columns 3 and 4, for the words "Five paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(94) in the entry at serial No. 165, in sub-entry (i), in columns 3 and 4, for the words "Nineteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(95) in the entry at serial No. 167, in columns 3 and 4, for the words "Eight paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(96) in the entry at serial No. 168, in columns 3 and 4, for the words "Nineteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(97) in the entries at serial Nos. 169, 170 and 171, in columns 3 and 4, for the words "Eighteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(98) in the entries at serial Nos. 172 and 173, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(99) in the entry at serial No. 174, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Six paise in the rupee" shall be substituted;

(100) in the entry at serial No. 175, in columns 3 and 4, for the words "Nineteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(101) in the entries at serial Nos. 176 and 179, in columns 3 and 4, for the words "Ten paise in the rupee", the words "Twelve paise in the rupee" shall be substituted;

(102) in the entry at serial No. 182,—

(i) in sub-entries (ii) and (iii), in columns 3 and 4, for the words "One paise in the rupee", the words "Two paise in the rupee" shall be substituted;

(ii) in sub-entry (iv), in columns 3 and 4, for the words "Seven paise in the rupee", the words "Two paise in the rupee" shall be substituted;

(103) in the entry at serial No. 185, in sub-entry (i) and in the entries at serial Nos. 187, 188, 189 and 190, in columns 3 and 4, for the words "Five paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(104) in the entry at serial No. 191, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;



(105) in the entry at serial No. 192, in sub-entry (i), in columns 3 and 4, for the words "Eighteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(106) in the entry at serial No. 195, in columns 3 and 4, for the words "Fourteen paise in the rupee", the words "Twelve paise in the rupee" shall be substituted.

Amendment of  
Schedule II,  
Part B to Guj. 1  
of 1970.

12. In the principal Act, in Schedule II, in Part B, in the entry at serial No. 7, in columns 3 and 4, for the words "Nineteen paise in the rupee", the words "Twenty paise in the rupee" shall be substituted.

Amendment of  
Schedule III to  
Guj. 1 of 1970.

13. In the principal Act, in Schedule III, after entry at serial No. 16, the following entries shall be added, namely;—

"17. Motor vehicles

18. Office equipments".

### STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Gujarat Sales Tax Act, 1969 with a view to giving effect to the proposals contained in the Budget speech of the Finance Minister in the Legislative Assembly on the 21st February, 1997.

An opportunity is taken to incorporate, wherever feasible, in the Schedule II, Part A, the rates of tax as reduced by notifications under sub-section (2) of section 49 of the Act.

The following notes on clauses explain in brief the important provisions of the Bill :—

*Clause 8.*—This clause seeks to insert new section 55BB in the Act providing for composition of tax on sales of lottery tickets. In the new section 55BB, the dealer is required to pay a lump sum by way of composition at the rate of two lakh fifty thousand rupees per lottery scheme in a month or part thereof.

*Clause 9.* — This clause seeks to insert a new Chapter VA consisting of two sections, viz. 57A and 57B. New section 57A seeks to define certain expressions used in new section 57B. Section 57B seeks to provide for deduction of an amount as tax by person responsible for paying specified sale price to a contractor at the rate of two paise in the rupee of such payment. Similarly, it also provides for requiring a contractor responsible for paying the specified sale price to a sub-contractor to deduct from such price an amount equal to two paise in a rupee of such payment. It also provides for imposition of penalty on a person who does not deduct an amount as required or after deducting the amount fails to pay the same into Government Treasury and for charging of interest at the rate of 24 per cent. for the delayed payment in the Government Treasury.

BABUBHAI MEGHJI SHAH

## MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :—

*Clause 2.*—Clause (21) proposed to be substituted by sub-clause (1) of this clause empowers the State Government to specify by notification in the Official Gazette, any other goods as prohibited goods.

*Clause 8.*—New section 55BB proposed to be inserted by this clause empowers the State Government to prescribe by rules the conditions subject to which the Commissioner may permit to a dealer engaged in sale of lottery tickets, to pay in lieu of the tax a lump sum by way of composition.

*Clause 9.*—(i) Sub-section (4) (a) of section 57B proposed to be inserted by this clause empowers the State Government to prescribe the form in which the certificate is to be given by the Commissioner for non-liability of tax of the contractor.

(ii) Sub-section (7) of new section 57B empowers the State Government to prescribe by rules other particulars to be furnished by the person deducting the amount of tax.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 20th March, 1997.

BABUBHAI MEGHJI SHAH.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 20th March, 1997.



**The Gujarat Government Gazette**  
**EXTRAORDINARY**  
 PUBLISHED BY AUTHORITY

Vol. XXXVIII] THURSDAY, MARCH 20, 1997\PHALGUNA 29, 1918

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE GUJARAT APPROPRIATION BILL, 1997.**

**GUJARAT BILL NO. 23 OF 1997.**

**A BILL**

*to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 1998.*

It is hereby enacted in the Forty-eighth Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Appropriation Act, 1997.

Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of fourteen thousand six hundred forty-seven crores, ninety-eight lakhs, five thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1997-98, in respect of the services and purposes specified in column 2 of the Schedule.

Withdrawal of Rs. 1,46,47,98,05,000 from and out of the Consolidated Fund of the State of Gujarat for the financial year 1997-98.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.



## THE SCHEDULE

(See sections 2 and 3)

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consolidated Fund	Total	
1	2		3		
1	Agriculture,Cooperation and Rural Development Department	Revenue	3,06,69,000	—	3,06,69,000
2	Agriculture	Revenue	342,12,93,000	—	342,12,93,000
		Capital	5,00,000	—	5,00,000
3	Minor Irrigation,Soil Conservation and Area Development	Revenue	76,95,69,000	—	76,95,69,000
		Capital	1,38,00,000	—	1,38,00,000
4	Animal Husbandry and Dairy Development	Revenue	44,62,14,000	—	44,62,14,000
		Capital	4,00,000	—	4,00,000
5	Co-operation	Revenue	24,39,03,000	—	24,39,03,000
		Capital	13,70,60,000	—	13,70,60,000
6	Other expenditure pertaining to Agriculture,Co-operation and Rural Development Department	Capital	4,60,40,000	—	4,60,40,000
7	Education Department	Revenue	1,71,20,000	—	1,71,20,000
8	Education	Revenue	22,03,47,33,000	65,03,00,000	22,68,50,33,000
		Capital	18,95,000	—	18,95,000
9	Other expenditure pertaining to Education Department	Revenue	8,80,30,000	—	8,80,30,000
		Capital	29,93,00,000	—	29,93,00,000
10	Energy and Petro- Chemicals Department	Revenue	71,80,000	—	71,80,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
11	Tax Collection Charges (Energy and Petro- Chemicals Department)	Revenue 3,97,85,000	—	3,97,85,000
12	Energy Projects	Revenue 6,04,90,00,000	—	6,04,90,00,000
		Capital 2,47,73,50,000	—	2,47,73,50,000
13	Other expenditure pertaining to Energy and Petro-Chemicals Department	Capital 2,14,45,000	—	2,14,45,000
14	Finance Department	Revenue 3,63,45,000	—	3,63,45,000
		Capital 5,00,000	—	5,00,000
15	Tax Collection Charges (Finance Department)	Revenue 37,58,59,000	—	37,58,59,000
16	Treasury and Accounts Administration	Revenue 25,70,22,000	—	25,70,22,000
17	Pension and Other Retirement Benefits	Revenue 4,43,66,75,000	5,00,000	4,43,71,75,000
18	Other expenditure pertaining to Finance Department	Revenue 7,63,15,25,000	—	7,63,15,25,000
		Capital 1,23,37,000	1,00,000	1,24,37,000
19	Repayment of debt pertaining to Finance Department and its Servicing.	Revenue —	16,47,70,94,000	16,47,70,94,000
		Capital —	7,43,22,26,000	7,43,22,26,000
20	Food and Civil Supplies Department	Revenue 4,37,80,000	—	4,37,80,000
21	Civil Supplies	Revenue 1,00,32,20,000	—	1,00,32,20,000
		Capital 2,000	—	2,000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
22	Food	Revenue	8,04,54,000	—	8,04,54,000
		Capital	15,00,000	—	15,00,000
23	Other expenditure pertaining to Food and Civil Supplies Department	Capital	20,30,000	—	20,30,000
24	Forests and Environment Department	Revenue	89,13,000	—	89,13,000
25	Forests	Revenue	64,54,44,000	—	64,54,44,000
		Capital	1,03,79,73,000	—	1,03,79,73,000
26	Environment	Revenue	5,45,55,000	—	5,45,55,000
27	Other expenditure pertaining to Forests and Environment Department	Capital	97,40,000	—	97,40,000
28	Governor	Revenue	—	1,14,42,000	1,14,42,000
29	Council of Ministers	Revenue	2,91,75,000	—	2,91,75,000
30	Elections	Revenue	8,06,65,000	—	8,06,65,000
31	Public Service Commission	Revenue	42,40,000	1,46,90,000	1,89,30,000
32	General Administration Department	Revenue	12,57,49,000	—	12,57,49,000
33	Economic Advice and Statistics	Revenue	7,09,92,000	—	7,09,92,000
34	Other expenditure pertaining to General Administration Department	Revenue	1,04,98,32,000	—	1,04,98,32,000
		Capital	1,05,55,000	—	1,05,55,000



No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
35	State Legislature Revenue	4,96,70,000	4,08,000	500,78,000
36	Loans and Advances to Government Servants in Gujarat Legislature Secretariat Capital	10,35,000	—	10,35,000
37	Health and Family Welfare Department Revenue	2,59,45,000	—	2,59,45,000
38	Medical and Public Health Revenue	4,64,48,39,000	—	4,64,48,39,000
39	Family Welfare Revenue	1,01,37,85,000	—	1,01,37,85,000
40	Water Supply Revenue	81,22,50,000	—	81,22,50,000
	Capital	5,25,57,00,000	—	5,25,57,00,000
41	Other expenditure pertaining to Health and Family Welfare Department Revenue	78,14,85,000	—	78,14,85,000
	Capital	5,13,50,000	—	5,13,50,000
42	Home Department Revenue	2,85,58,000	—	2,85,58,000
43	Police Revenue	4,29,23,86,000	—	4,29,23,86,000
44	Jails Revenue	17,77,29,000	—	17,77,29,000
45	Transport Revenue	57,76,60,000	—	57,76,60,000
46	Other expenditure pertaining to Home Department Revenue	20,08,80,000	10,00,000	20,18,80,000
	Capital	46,71,90,000	—	46,71,90,000
47	Industries and Mines Department Revenue	1,44,90,000	—	1,44,90,000
48	Stationery and Printing Revenue	31,73,00,000	—	31,73,00,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consolidated Fund	Total	
1	2	3			
49	Industries	Revenue	1,11,36,36,000	—	1,11,36,36,000
		Capital	48,89,50,000	—	48,89,50,000
50	Mines and Minerals	Revenue	11,09,86,000	—	11,09,86,000
51	Other expenditure pertaining to Industries and Mines Department	Revenue	1,14,20,000	—	1,14,20,000
		Capital	1,72,50,000	—	1,72,50,000
52	Information, Broadcasting and Tourism Department	Revenue	41,55,000	—	41,55,000
53	Information and Publicity	Revenue	16,77,26,000	—	16,77,26,000
		Capital	1,00,000	—	1,00,000
54	Tourism	Revenue	4,35,85,000	—	4,35,85,000
		Capital	1,00,000	—	1,00,000
55	Other expenditure pertaining to Information, Broadcasting and Tourism Department	Revenue	1,51,30,000	—	1,51,30,000
		Capital	19,30,000	—	19,30,000
56	Labour and Employment Department	Revenue	92,00,000	—	92,00,000
57	Labour and Employment	Revenue	68,14,64,000	—	68,14,64,000
		Capital	25,000	—	25,000
58	Other expenditure pertaining to Labour and Employment Department	Capital	94,50,000	—	94,50,000
59	Legal Department	Revenue	1,45,80,000	—	1,45,80,000
60	Administration of Justice	Revenue	52,65,14,000	8,39,80,000	61,04,94,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
61	Other expenditure pertaining to Legal Department	Revenue 3,25,05,000 Capital 3,52,25,000	— —	3,25,05,000 3,52,25,000
62	Legislative and Parliamentary Affairs Department	Revenue 1,00,67,000	—	1,00,67,000
63	Other expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital 5,20,000	—	5,20,000
64	Narmada and Water Resources Department	Revenue 2,52,75,000	—	2,52,75,000
65	Narmada Development Scheme	Capital 11,99,60,75,000	—	11,99,60,75,000
66	Irrigation and Soil Conservation	Revenue 7,11,43,94,000 Capital 2,81,88,00,000	— —	7,11,43,94,000 2,81,88,00,000
67	Other expenditure pertaining to Narmada and Water Resources Department	Revenue 1,60,000 Capital 2,79,80,000	— —	1,60,000 2,79,80,000
68	Panchayats and Rural Housing Department	Revenue 1,63,97,000	—	1,63,97,000
69	Community Development	Revenue 1,17,73,15,000	—	1,17,73,15,000
70	Rural Housing	Revenue 23,40,20,000 Capital 2,50,00,000	82,64,88,000 —	1,06,05,08,000 2,50,00,000
71	Compensation and Assignments	Revenue 26,05,10,000	—	26,05,10,000
72	Other expenditure pertaining to Panchayats and Rural Housing Department	Revenue 18,36,75,000 Capital 14,92,35,000	— —	18,36,75,000 14,92,35,000



No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consolidated Fund	Total	
1	2	3			
73	Fisheries	Revenue	19,74,44,000	—	19,74,44,000
		Capital	22,81,86,000	—	22,81,86,000
74	Other expenditure pertaining to Ports and Fisheries Department	Revenue	48,00,000	—	48,00,000
		Capital	16,38,000	—	16,38,000
75	Revenue Department	Revenue	4,49,85,000	—	4,49,85,000
76	Tax Collection Charges (Revenue Department)	Revenue	35,60,05,000	—	35,60,05,000
77	District Administration	Revenue	36,93,85,000	—	36,93,85,000
78	Relief on Account of Natural Calamities	Revenue	1,47,07,00,000	—	1,47,07,00,000
		Capital	2,00,00,000	—	2,00,00,000
79	Dangs District	Revenue	16,76,45,000	—	16,76,45,000
80	Compensation and Assignments	Revenue	15,60,10,000	23,00,000	15,83,10,000
		Capital	20,00,000	7,00,000	27,00,000
81	Other expenditure pertaining to Revenue Department	Revenue	46,72,000	1,000	46,73,000
		Capital	5,24,80,000	—	5,24,80,000
82	Roads and Buildings Department	Revenue	2,82,30,000	—	2,82,30,000
83	Non-Residential Buildings	Revenue	1,30,05,33,000	3,12,000	1,30,08,45,000
		Capital	78,64,35,000	—	78,64,35,000
84	Residential Buildings	Revenue	56,36,28,000	—	56,36,28,000
		Capital	21,06,46,000	—	21,06,46,000
85	Roads and Bridges	Revenue	3,03,79,08,000	—	3,03,79,08,000
		Capital	82,85,30,000	—	82,85,30,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
86	Gujarat Capital Construction Scheme	Revenue 3,52,10,000 Capital 6,47,30,000	— —	3,52,10,000 6,47,30,000
87	Other expenditure pertaining to Roads and Buildings Department	Revenue 10,53,80,000 Capital 3,82,50,000	— —	10,53,80,000 3,82,50,000
88	Social Welfare and Tribal Development Department	Revenue 1,38,80,000	—	1,38,80,000
89	State Excise	Revenue 3,23,60,000	—	3,23,60,000
90	Social Security and Welfare	Revenue 1,18,51,92,000 Capital 2,13,60,000	36,30,000 —	1,18,88,22,000 2,13,60,000
91	Welfare of Scheduled Tribes	Revenue 33,99,17,000 Capital 44,70,000	— —	33,99,17,000 44,70,000
92	Other expenditure pertaining to Social Welfare Department	Capital 47,76,000	—	47,76,000
93	Special Component Plan for Scheduled Castes	Revenue 1,94,39,44,000 Capital 10,78,43,000	— —	1,94,39,44,000 10,78,43,000
94	Tribal Area Sub-Plan	Revenue 4,48,46,75,000 Capital 1,70,72,84,000	— —	4,48,46,75,000 1,70,72,84,000
95	Urban Development and Urban Housing Department	Revenue 99,65,000	—	99,65,000
96	Urban Housing	Revenue 1,04,05,000 Capital —	21,67,19,000 —	22,71,24,000 —
97	Urban Development	Revenue 83,78,10,000 Capital 1,50,00,000	— —	83,78,10,000 1,50,00,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
98	Compensation, Assignment and Revenue Tax Collection Charges	38,53,00,000	23,01,03,000	61,54,03,000
99	Other expenditure pertaining to Revenue Urban Development and Urban Capital Housing Department	1,40,00,000 12,65,000	— —	1,40,00,000 12,65,000
100	Youth Services and Cultural Revenue Activities Department	41,85,000	—	41,85,000
101	Youth Services and Revenue Cultural Activities	13,80,47,000	—	13,80,47,000
102	Other expenditure pertaining to Capital Youth Services and Cultural Activities Department	8,70,000	—	8,70,000
Total :		Revenue 91,01,37,87,000	18,51,89,67,000	1,09,53,27,54,000
		Capital 29,51,40,25,000	7,43,30,26,000	36,94,70,51,000
Grand Total :		1,20,52,78,12,000	25,95,19,93,000	1,46,47,98,05,000



## STATEMENT OF OBJECTS AND REASONS

Article 204(1) of the Constitution of India requires that as soon as may be after the grants have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet—

- (a) the grants so made by the Assembly, and
- (b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the Statement previously laid before the Legislative Assembly.

The Bill accordingly specifies the gross amount required to meet grants made by the Assembly and the Expenditure charged on the Consolidated Fund of this State for the financial year ending on the 31st March, 1998.

The amounts are shown below :—

(a) Revenue Expenditure	Rs.	1,09,53,27,54,000
(b) Capital Expenditure	Rs.	36,94,70,51,000
Total....	Rs.	1,46,47,98,05,000

Dated the 20th March, 1997.

BABUBHAI MEGHJI SHAH.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 20th March, 1997.



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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 20th March, 1997 by Shri Dr. CHANDRIKABEN CHUDASAMA, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

**“GUJARAT BILL NO. 24 OF 1997.**

**THE GUJARAT NURSING HOMES AND CLINICAL  
ESTABLISHMENTS (REGISTRATION AND  
LICENSING) BILL, 1996.**

**A BILL**

*to introduce a system of registration and licensing of nursing homes and  
clinical establishments in the State of Gujarat and for matters  
connected therewith.*

It is hereby enacted in the Forty-seventh year of the Republic of India as follows :—

**CHAPTER-I**

**PRELIMINARY**

• 1. (1) This Act may be called the Gujarat Nursing Homes and Clinical Establishments (Registration and Licensing) Act, 1996.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date and in such areas as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different areas.

## Definitions.

2. In this Act, unless, the context otherwise requires,-

(a) "clinical establishment" means a medical laboratory, a physiotherapy establishment, a clinic, or an establishment analogous to any of them, by whatever name called;

(b) "hospital" means any premises used for the reception of the sick;

(c) "maternity home" means an establishment where women are usually received and accommodated for the purpose of confinement and post-natal care in connection with child birth or anything connected therewith;

(d) "medical laboratory" means an establishment where-

(i) biological, bacteriological, radiological, microscopic, chemical or other tests, examinations or analysis, or

(ii) the preparation of cultures, vaccines, sera or other biological or bacteriological products,

in connection with the diagnosis or treatment of diseases are or is usually carried on;

(e) "nursing home" means any establishment or premises used or intended to be used, for the reception and accommodation of persons suffering from any sickness, injury or infirmity whether of body or mind, and providing of treatment or nursing or both for them and includes a maternity home, but does not include-

(i) any hospital or other establishment or premises maintained or controlled by the Central or the State Government or any other authority or body constituted by or under any statute of a competent legislature;

(ii) any asylum established or licensed under the Indian Lunacy Act, 1912.

(f) "physio-therapy establishment" means an establishment where massaging, electrotherapy, hydrotherapy, remedial gymnastics or similar processes are usually carried on, for the purpose of treatment of disease or of infirmity or for improvement of health, or for the purpose, of relaxation or for any other purpose whatsoever, whether or not analogous to the purposes hereinbefore mentioned in this clause;

(g) "prescribed" means prescribed by rules made under this Act;



(h) "qualified medical practitioner" means a medical practitioner registered in any State in India under any law for the time being in force for the registration of medical practitioners;

48 of 1947.

(i) "qualified midwife" means a midwife or a auxiliary nurse-midwife who possesses any of the qualifications included in section B or C as the case may be, of Part I of the Schedule to the Indian Nursing Council Act, 1947, and who is enrolled as a midwife or an auxiliary nurse-midwife in a State Register in India;

(j) "qualified nurse" means a person who possesses the qualifications included in section A of Part I of the Schedule to the Indian Nursing Council Act, 1947, and who is enrolled as nurse in a State Register in India;

(k) "register" means a register kept under this Act and the expression "registered" and "registration" shall be construed accordingly;

(l) "rules" means rules made under this Act;

(m) "supervising authority" means the person or authority appointed by the State Government by notification in the Official Gazette to perform all or any of the functions of the supervising authority under this Act;

## CHAPTER II

### REGISTRATION AND LICENSING OF NURSING HOMES AND CLINICAL ESTABLISHMENTS.

3. No person shall open, keep or carry on a nursing home or a clinical establishment without being registered in respect thereof and except under and in accordance with the terms of a license granted therefor.

Nursing home or clinical establishment not to be opened, kept or carried on without registration and license.

**EXPLANATION** :—The expression "carry on a nursing home" means to receive persons in a nursing home for any of the purposes mentioned in clause (e) of section 2 and to provide treatment or nursing or both of them.

4. (1) Every person intending to open, keep or carry on a nursing home or a clinical establishment shall make every year an application for registration in respect of the nursing home or the clinical establishment and for the grant of a license therefor, or for the renewal of the registration and the licence, to the supervising authority:

Application for registration and licence.

Provided that nothing in this section or in section 3 shall apply in the case of a nursing home or a clinical establishment which is in existence

in any area at the date of the commencement of this Act in that area for a period of three months from such date or if an application for registration and the grant of a licence is made within that period in accordance with sub-section (2), until such application has been finally disposed of.

(2) Every application for registration in respect of a nursing home or a clinical establishment and for the grant of licence therefor or for the renewal of the registration and the licence shall contain such particulars and shall be accompanied by such fees, as may be prescribed.

(3) The supervising authority, if satisfied that the applicant and the nursing home or the clinical establishment, as the case may be, fulfil such conditions as may be prescribed, shall register the applicant in respect of such nursing home or clinical establishment and shall grant it a licence therefor.

(4) The supervising authority may reject an application if he is satisfied:—

(a) that the applicant, or any person employed by him at the nursing home or the clinical establishment, is not a fit person, whether by reason of age or otherwise, to carry on, or to be employed at, the nursing home or the clinical establishment of such a description as the nursing home or clinical establishment named in the application;

(b) that the applicant or the nursing home or the clinical establishment does not fulfil the conditions prescribed under sub-section (3); or

(c) that the real object of the applicant is to use, or allow the nursing home or clinical establishment to be used, for unsocial or immoral purposes or both or

(d) in the case of a nursing home other than a maternity home, that the nursing home is not or will not be under the charge of a qualified medical practitioner resident therein and that the nursing of persons received and accommodated therein is not or will not be under the superintendence of a qualified nurse resident therein; or

(e) in the case of a maternity home, that such maternity home is not or will not be under the charge of a qualified midwife and that the attendance on every woman before, at, or after childbirth or on any child born is not or will not be under the superintendence of a qualified midwife resident therein;

(f) that for reasons connected with the situation, construction, accommodation staffing or equipment, the nursing home or clinical establishment is not fit to be used for a nursing home or clinical establishment of such a description as the nursing home or the clinical establishment mentioned in the application,

and shall in every case, where the application is rejected, record the grounds for rejection.

(5) Every licence granted under sub-section (3) shall be upon such terms as may be prescribed and such terms may, *inter-alia* require:-

(a) such precautions to be observed for safeguarding that the nursing home or the clinical establishment is not used for unsocial or immoral purposes or both;

(b) such sanitary and hygienic measures to be taken and such accommodation to be provided, as may be specified by the supervising authority;

(c) such minimum equipment as may be specified by the supervising authority in this behalf;

(d) in the case of nursing homes, records to be kept of persons received and accommodated and intimation to be given to specified authorities of births, deaths and mis-carriages therein, and such statistics shall be transmitted each month besides an annual report to the Central Government in the Ministry of Health and to other authorities as may be prescribed;

(e) in the case of clinical establishment, records to be kept of persons investigated or treated therein, and such statistics shall be forwarded each month to the State Government and to the Central Government in the Ministry of Health in duplicate.

(6) A certificate of registration and a licence issued under this section shall, subject to the provisions of section 5, be in force and shall be valid until the 31st day of March next following the date on which such certificate was issued.

(7) A certificate of registration issued in respect of nursing home or a clinical establishment shall be kept affixed in a conspicuous place in the nursing home or the clinical establishment, as the case may be.

5. If at any time after any person has been registered in respect of any nursing home or clinical establishment and granted a licence therefor, the supervising authority is satisfied :—

Cancellation  
of  
registration  
and licence.

(i) that the terms of the licence are not being complied with; or

(ii) that any of the grounds which would have entitled him to refuse the application for registration or licence, exist; or

(iii) that the person registered and licensed, has been convicted of an offence punishable under this Act; or



(iv) that any other person who has been convicted of an offence under this Act is materially interested in the nursing home or the clinical establishment,

he may cancel such registration and licence.

Notice of refusal or of cancellation of registration.

6. (1) Before making an order refusing an application for registration and licence in respect of a nursing home or a clinical establishment or an order cancelling any registration and licence in respect thereof, the supervising authority shall give to the applicant or to the person registered and licensed not less than one calendar month's notice of its intention to make such an order, and every such notice shall state the grounds on which the supervising authority intends to make the order and shall contain an intimation to the effect that if within a calendar month of the receipt of the notice the applicant or the person registered informs the authority in writing that he desires so to do, the supervising authority shall, before making the order give him an opportunity of showing cause (in person or by representative) why the order should not be made.

(2) If the supervising authority after giving the applicant or the person registered an opportunity of showing cause as aforesaid, decides to refuse the application for registration and licence or to cancel the registration and the licence, as the case may be, it shall make an order to that effect and shall send a copy of the order by registered post to the applicant or the person registered.

(3) Any person aggrieved by an order refusing an application for registration and licence or cancelling any registration and licence may within a period of a calendar month after the date on which the copy of the order was received by him, appeal to the State Government against such order or refusal. The decision of the State Government on any such appeal shall be final and shall not be questioned in any court.

Inspection of Nursing Homes and Clinical Establishments.

7. (1) Subject to such regulations as may be prescribed, any officer of the State Government authorised by the State Government in this behalf, may,—

(a) enter at any time by night or by day with or without notice, any place or establishment which he has reason to believe that it is being used as a nursing home or a clinical establishment;

(b) make such examination of the place or establishment and inspect any equipment articles or documents found therein and seize and take out therefrom any such equipment, article or documents as he deems necessary for the purpose of examination analysis, investigation or evidence and retain them as long as he thinks it necessary to do so for such purposes;

(c) make such inquiries, and put such questions to any person found in such place or establishment as he deems necessary in order

to ascertain whether the place or the establishment is being used as a nursing home or clinical establishment or not.

(2) No person shall obstruct an officer authorised under sub-section (1) in the exercise of any power conferred by that sub-section or make any false or reckless statement in answer to a question put by such officer in exercise of the powers conferred on him under clause (c) of that sub-section.

### CHAPTER III

#### PENALTIES

Penalties for  
offences  
under  
the  
Act.

8. (1) Any person—

(a) who contravenes the provisions of section 3, or

(b) who contravenes the provisions of sub-section (2) of section 7,  
or

(c) who being the holder of a licence granted under this Act in respect of any nursing home or clinical establishment, uses or allows such nursing home or clinical establishment to be used for unsocial or immoral purposes or for both

shall be guilty of an offence and shall—

(i) on conviction for a first offence be punishable with fine which may extend to five hundred rupees, and

(ii) on conviction for a second or subsequent offence be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both and shall in addition be liable to fine which may extend to twenty five rupees for every day for which the offence continues after conviction.

9. Where a person committing an offence under this Act is a company or other body corporate or an association of persons (whether incorporated or not) every person who at the time of the commission of the offence was a director, manager, secretary agent or other officer or person concerned with the management thereof shall unless he proves that the offence was committed without his knowledge be deemed to be guilty of such offence.

Offences by  
Corpora-  
tions.

10. Any person who knowingly serves in a nursing home or clinical establishment which is not duly registered and licensed under this Act or which is used for unsocial or immoral purposes shall be guilty of an offence and shall be punishable with fine which may extend to five hundred rupees.

Penalty for  
serving in an  
unlicensed  
and unregistered  
nursing home  
or clinical  
establishment.

## CHAPTER IV

## MISCELLANEOUS

Offences under the Act to be cognizable.

11. All offences under this Act shall be cognizable.

Courts competent to try offences under this Act.

12. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 no court inferior to that of a Presidency Magistrate or a Magistrate of the First class shall try an offence punishable under this Act.

Protection of action taken in good faith.

13. (1) No suit, prosecution or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act or any rules made thereunder.

(2) No suit or other legal proceeding shall lie against Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

Credit of fees and fines.

14. Any fees received or fines paid under this Act shall be credited to the Consolidated Fund of the State.

Expenses of supervising authority.

15. All expenses incurred by the supervising authority under and for the purpose of this Act and the rules made there under shall be paid out of the Consolidated Fund of the State.

Power to make rules.

16. (1) The State Government may notification in the official Gazette, make rules for carrying out all or any of the purposes of this Act.

(2) Without prejudice to the generality of the following power such rules may provide for all or any of the following matters, namely :-

(a) the form of the application to be made under section 4 the date on which such application is to be made and the fees to be paid for such registration or renewal of registration.

(b) the authority to whom an application under sub-section (2) of section 4 shall be made and the particulars which such application shall contain and the fee with which such application shall be accompanied;

(c) the conditions which an applicant and a nursing home or a clinical establishment shall fulfil under sub-section (3) of section 4;

(d) the fees to be paid for an appeal under sub-section (3) of section 6 and the procedure or such appeal;

(e) the form of the register to be maintained under this Act;



(f) the form and the terms of the licence to be issued under section 4;

(g) the records to be kept of the patients received in a nursing home and in the case of the maternity home of miscarriages, abortions or still-births occurring in the nursing home and of the children born therein and of the children so born who are removed from the nursing home other wise than to the custody or care of any parent, guardian or relative;

(h) the notification required to be given of any death occurring in the nursing home;

(i) the conditions regarding accommodation sanitary and other facilities and minimum equipments;

(j) the regulations subject to which an officer authorised under sub-section (1) of section 7 may exercise his power under that sub-section;

(k) any other matter which has to be, or may be, prescribed.

(3) The powers to make rules under this section shall be subject to the condition of previous publication in the Official Gazette.

(4) All rules made under this Act by the State Government shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

## STATEMENT OF OBJECTS AND REASONS

Certain nursing homes and clinical establishment are carried out by private individuals without having qualified medical practitioners or qualified staff, essential medical equipments and adequate facilities of accommodation, sanitation and without hygienic conditions which directly causes irreparable damage to and loss precious human lives. Besides, the nursing home and clinical establishments do not keep and provide to the Government records regarding birth-deaths, miscarriages, abortions and cases and treatment given for different diseases. The Govt. therefore, lacks correct and complete data in this regard. It is, therefore, intended to provide for registration, licensing and inspection of nursing homes and clinical establishments in the State of Gujarat for the betterment of public health.

The Bill seeks to achieve the aforesaid objects.

Dated the 14th August, 1996

CHANDRIKABEN CHUDASAMA,  
M.L.A.

## FINANCIAL MEMORANDUM

Clause 15 of the Bill provides for expenses of supervising authority. The provisions of the Bill is estimated to involve on annual recurring expenditure of Rs. 5 lacs from the Consolidated Fund of the State.

Dated the 14th August, 1996

Dr. CHANDRIKABEN CHUDASAMA,  
M.L.A.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of clause 1 empowers the State government to determine the areas to which the provisions of this Act shall apply and to appoint date or dates for all or any of the areas for the commencement of this Act.

Sub-clause (m) of clause 2 of the Bill empowers the State Government to appoint a person or authority to perform functions of the supervising authority.

Sub-clause (2) of Clause 4 empowers the State Government to prescribe particulars of an application for registrations, grants of licence and renewal of the registration shall contain and the fees that shall be accompanied.

Sub-clause (3) of clause 4 empowers the State Government to prescribe conditions to be fulfilled for registration of nursing home or clinical establishment.

Sub-clause (5) of clause 4 empowers the State Government to prescribe terms upon which licence shall be granted under sub-clause (3).

Paragraph (d) of sub-clause (5) of clause 4 empowers the State Government to prescribe authorities other than the central Government for transmission of certain information and an annual reports.

Sub-clause (1) of clause 7 empowers the State Government to prescribe regulations for inspection of nursing homes and clinical establishments.

Clause 16 of the Bill empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is necessary and is of normal character.

Dated the 14th August, 1996.

Dr. CHANDRIKABEN CHUDASAMA,

M.L.A."

Gandhinagar,  
Dated the 20th March, 1997.

V. H. DAVE,  
Secretary,  
Gujarat Legislative Assembly.





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# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XXXVIII]

THURSDAY, MARCH 20, 1997/PHALGUNA 29, 1918

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

### PART V

#### Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 20th March, 1997 by Shri MADHUBHAI BHUVA M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

"GUJARAT BILL NO. 25 OF 1997.

#### THE GUJARAT MUNICIPALITIES (AMENDMENT) BILL, 1997

##### A BILL

*further to amend the Gujarat Municipalities Act, 1963.*

It is hereby enacted in the Forty-eighth year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Municipalities (Amendment) Act, 1997.

Short title  
and commen-  
cement.

(2) It shall come into force at once.

2. In the Gujarat Municipalities Act, 1963, in section 70, for sub-section (1) the following new sub-section shall be substituted namely,

Amendment  
of section 70  
of Guj. 34 of  
1964.

"(1) Every member of a Municipality or its Committee shall be personally liable for the loss, waste or misapplication of any money or other property of the municipality to which he has been party, or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member of such Municipality or its Committee."

Liabilities of  
members for  
loss, waste or  
mis-appli-  
cation.

Guj. 34  
of 1964.

## STATEMENT OF OBJECTS AND REASONS

In the administration of Municipalities, certain decisions and actions are taken by the President, Vice President, a Councillor or a Chief Officer or Member or a Chairman or Member of a Committee which results sometime into loss due to negligence or mis-application by the person concerned. This creates a burden on the funds of the Municipality and ultimately the citizen has to suffer. The Gujarat Panchayats Act provides under section 267 for fixing liabilities of the functionaries in such case. As there is no similar provision in the Municipalities Act, it is intended to make such a provision in the Gujarat Municipalities Act, 1963 by this Bill.

Gandhinagar,  
Dated the 27th January, 1997.

MADHUBHAI H. BHUVA,

M.L.A."

Gandhinagar,  
Dated the 20th March, 1997.

V. H. DAVE,  
Secretary,  
Gujarat Legislative Assembly.



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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 20th March, 1997, by  
 Shri Dr. DINESH PARMAR M.L.A. is published under rule 127-A of the  
 Gujarat Legislative Assembly Rules for general information :—

**GUJARAT BILL NO. 26 OF 1997.**

**THE GUJARAT REGULATION OF PRE-NATAL  
 DIAGNOSTIC TESTS BILL, 1997.**

**A BILL**

*to prohibit use or carrying out of pre-natal diagnostic tests for the purpose  
 of determination of sex of a foetus; to regulate use or carrying out  
 of certain pre-natal diagnostic tests for certain purposes and to  
 provide for matters connected therewith or incidental thereto.*

It is hereby enacted in the Forty-Eighth Year of the Republic of India  
 as follows :—

1. (1) This Act may be called the Gujarat Regulation of Pre-natal  
 Diagnostic Tests Act, 1997.

(2) It extends to the whole of the State of Gujarat.

(3) This section shall come into force at once and the other provisions  
 of this Act shall come into force on such date as the State Government  
 may, by notification in the Official Gazette, appoint.

Short title  
 extent and  
 commencement.



## Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "advertisement" includes any notice, circular, label, wrapper or other document and any announcement made orally or by means of producing or transmitting light, sound or smoke;

(b) "designated test" means any of the following pre-natal diagnostic tests, namely:—

(i) Amniocentesis,

(ii) Chorion villi biopsy,

(iii) Foetoscopy,

(iv) Amnioscopy,

(v) any other test which the State Government may, by notification in the *Official Gazette*, specify;

(e) "Gynaecologist" means a person who has acquired a post-graduate degree in the subject of Obstetrics and Gynaecology of any University established by law in India;

(d) "Inspector" means an Inspector appointed under section 6;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "specified test" means any of the following pre-natal diagnostic tests, namely:—

(i) any of the designated tests mentioned in sub-clauses (i) to (iv) of clause (b),

(ii) any other test specified as a designated test by the State Government under sub-clause (v) of clause (b),

(iii) Sonography,

(iv) any other test which the State Government may, by notification in the *Official Gazette*, specify.

## Prohibition of use of specified test.

3. For the purpose of determination of sex of a foetus irrespective of whether it is intended to terminate pregnancy under the Medical Termination of Pregnancy Act, 1971 or not—

(a) no person shall use or carry out,

(b) no person shall aid or abet the using or carrying out of,

(c) no female shall submit to; and

(d) no person shall aid or abet submission of a female to, any specified test.

4. No person shall take any part in the publication of any advertisement offering to determine the sex of a foetus.

Prohibition  
of advertisement  
offering to deter-  
mine sex of  
foetus.

5. (1) No person, other than a specified Gynaecologist or an authorised Head of Unit, shall use or carry out any designated test.

Regulation  
of use of  
designated  
test.

(2) No specified Gynaecologist and no authorised Head of Unit shall use or carry out designated test at any place other than the Government Hospital attached to a medical college in which he is employed as such Gynaecologist or Head of Unit.

(3) The specified Gynaecologist or authorised Head of Unit shall not use or carry out any designated test for any purpose other than the purpose of detection of any of the following abnormalities, namely:—

(i) Chromosomal abnormalities,

(ii) Genetic metabolic diseases,

(iii) Haemoglobinopathy,

(iv) Sex-linked genetic diseases,

(v) Congenital anomalies,

(vi) Rh. incompatibility,

(vii) Any other abnormality or disease which the State Government may, by notification in the *Official Gazette*, specify.

(4) The specified Gynaecologist or the authorised Head of Unit shall not use or carry out a designated test unless—

(a) he is satisfied that any of the following conditions exist, namely:—

(i) Age of the pregnant woman is more than 35 years,

(ii) Occurrence of two or more abortions or foetal loss,

(iii) Occurrence of exposure to potentially teratogenic drugs, radiation, infection or hazardous chemicals

(iv) Family history of mental retardation or physical deformities such as spastic or deaf-mute child, hæmoglobinopathy or any other genetic disease.

(v) Any other condition which the State Government may, by notification in the *Official Gazette*, specify; and

(b) he has obtained a written consent of the female in relation to whom the designated test is to be used or carried out, in such form as may be prescribed, after explaining to her the likely side-effects or after-effects of the designated test.

*Explanation I.*—For the purposes of this section and sections 13, 14 and 20, the expression “specified Gynaecologist” means a Gynaecologist employed as the Head of the Department of Obstetrics and Gynaecology in a Government Hospital to which a medical college is attached.

*Explanation II.*—For the purposes of this section and sections 13 and 14, the expression “authorised Head of Unit” means such Head of Unit of Department of Obstetrics and Gynaecology in a Government Hospital to which a medical college is attached as may be authorised in writing by the specified Gynaecologist in such Government Hospital in this behalf.

inspectors.

6. (1) The State Government may, by notification in the *Official Gazette*, appoint such officers of the Government as possess the prescribed qualifications to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(2) The State Government may, by notification in the *Official Gazette*, appoint any officer of the Government to be a Chief Inspector who shall exercise the powers of an Inspector throughout the State.

Power of  
Inspectors.

7. Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed, enter, with such assistants being persons in the service of the State Government or any local or other public authority, as he thinks fit, any dispensary, clinic, laboratory or any other premises, where he has reason to believe that contravention of the provisions of this Act has been, is being or is about to be committed and search the same, and seize—

(a) any apparatus, equipments and instruments which were used or are being used or about to be used in contravention of the provisions of this Act if he has reason to believe that such apparatus, equipments and instruments are liable to confiscation under the provisions of this Act;

(b) any books of accounts and documents which in his opinion may be useful for, or relevant to, any proceeding under this Act and the person from whose custody such books of accounts and documents are seized shall be entitled to make copies thereof or to take extracts therefrom in the presence of the Inspector having the custody of such books of account or documents.



24 of 1971.

8. Whoever in contravention of the provisions of section 3 uses or carries out any specified test for the purpose of determination of sex of a fetus irrespective of whether it is intended to terminate pregnancy under the Medical Termination of Pregnancy Act, 1971 or not shall, on conviction, be punished with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees :

Penalty for use of specified test in contravention of provisions of section 3

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in writing in the judgement of the court, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.

24 of 1971.

9. Whoever in contravention of section 3 aids or abets the use or carrying out of any specified test for the purpose of determination of sex of a fetus irrespective of whether it is intended to terminate pregnancy under the Medical Termination of Pregnancy Act, 1971, or not shall, on conviction be punished with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees :

Penalty for aiding or abetting use of specified test in contravention of provisions of section 3.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in writing in the judgement of the court, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.

10. Whoever in contravention of section 3 submits to a specified test shall, on conviction, be punished with fine which may extend to five thousand rupees.

Penalty for submission to specified test in contravention of section 3.

11. Whoever in contravention of section 3 aids or abets submission of a female to a specified test shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to five thousand rupees :

Penalty for aiding or abetting submission of a female to specified test.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in writing in the judgement of the court, such imprisonment shall not be less than three months and fine shall not be less than one thousand rupees.

12. Whoever in contravention of section 4 takes part in any advertisement offering to determine the sex of a fetus shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees or with both.

Penalty for taking part in any advertisement in contravention of provisions of section 4.

13. Whoever not being a specified Gynaecologist or an authorised Head of Unit in contravention of the provisions of section 5 uses or carries out any designated test for any purpose whatsoever, shall, on conviction, be punished with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees :

Penalty for use of designated test in contravention of provisions of section 5.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in writing in the judgement of the court, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.

Penalty for use of designated test by specified Gynaecologist for any purpose other than mentioned in section 5 in contravention of provisions of section 5.

14. Where a specified Gynaecologist or an authorised Head of Unit uses or carries out a designated test for any purpose other than the purpose of detection of any of the abnormalities mentioned in section 5, he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both.

Apparatus, equipments and instruments, liable to confiscation.

15. Whenever any offence punishable under section 8 or 13 has been committed, any apparatus, equipments and instruments used in commission of such offence shall be confiscated by the order of the Court.

Offences under sections 8, 9, 11, 12 and 13 to be cognisable and non-bailable.

16. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any police-officer not below the rank of Sub-Inspector may arrest without warrant any person who is reasonably suspected of having committed an offence under section 8, 9, 11, 12, or 13 and offences under sections 8, 9, 11, 12, and 13 shall be non-bailable.

2 of 1974.

Names of offenders to be reported to Medical Council.

17. (1) Where any registered medical practitioner is convicted of an offence under section 8, 12 or 13, the court convicting such practitioner shall report the name of such practitioner to the Gujarat Medical Council.

(2) The Gujarat Medical Council shall take such disciplinary action against the registered medical practitioner as deemed fit.

Protection of action taken in good faith.

18. No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of the State Government for anything which is in good faith done or intended to be done in pursuance of this Act.

Power to make rules.

19. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following matters, namely:--

(a) the form in which written consent of a female is to be obtained under clause (b) of sub-section (1) of section 5;

(b) the qualifications to be possessed by persons for being appointed as Inspectors under sub-section (1) of section 6;

(c) rules subject to which Inspectors may exercise the power of entry, search and seizure under section 7;

(d) any other matter which is to be or may be prescribed under this Act.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

20. Nothing in this Act shall apply to the use or carrying out of any specified test or designated test solely for the purpose of medical education or research, other than such education or research related to sex determination, by--

Savings.

(a) a specified Gynaecologist, or

(b) such professor or such associate professor of Obstetrics and Gynaecology in any Government Medical College authorised in writing by a specified Gynaecologist of the Government Hospital to which such Government Medical College is attached,

(c) such professor or such associate professor of Obstetrics and Gynaecology in any other medical college, recognised by the Medical Council of India or, as the case may be, approved by the State Government, as may be authorised in this behalf by the State Government by notification in the *Official Gazette*.



## STATEMENT OF OBJECTS AND REASONS

It has been brought to the notice of the State Government that pre-natal diagnostic tests intended to find out probable genetic disorders in unborn child are freely being carried out to determine the sex of the unborn child with a view to terminating the pregnancy, with or without the consent of mother, if the unborn child is determined to be a female. Such diagnostic tests often deteriorate the health of the woman and sometimes result in her death. The tendency of terminating the pregnancy if the unborn child is determined to be a female stems from the belief that a girl child is burdensome and therefore unwanted.

In order to prevent deterioration of the health of pregnant woman on account of pre-natal diagnostic tests and protect the unborn girl child so as to prevent imbalance in the male and female population in future, it is considered necessary to enact the proposed legislation to prohibit the use of pre-natal diagnostic tests, for determination of sex of unborn child and to regulate the use of diagnostic tests for determination of genetic or congenital disorders.

The following notes on clauses explain in brief the important provisions of the Bill.

*Clause 2.*—This clause seeks to define certain words. Sub-clause (b) seeks to define "designated test" to mean any of the diagnostic tests mentioned therein and power is taken to the State Government, to specify any other test which on such specification would be the designated test. Sub-clause (f) seeks to define "specified test" to mean any of the diagnostic tests mentioned therein as well as any of the designated test. Power is also taken to the State Government to specify any other test which on such specification would be the specified test.

*Clause 3.*—This clause seeks to prohibit—

- (a) the use or the carrying out of a specified test,
- (b) aiding or abetting the use or the carrying out of a specified test,
- (c) submission of a woman to a specified test,
- (d) aiding or abetting submission of a woman to a specified test,

for the determination of sex of a foetus.

*Clause 4.*—This clause seeks to prohibit advertisement offering to determine sex of foetus.

*Clause 5.*—This clause seeks to prohibit—

- (a) the use or the carrying out of any designated test by any person other than the Gynaecologist mentioned therein;

(b) the use or carrying out of the designated test by the Gynaecologist at any place other than the Government Hospital attached to a Medical College in which the Gynaecologist is employed,

(c) the use or carrying out of the designated test by the Gynaecologists for any purpose other than the detection of the abnormalities mentioned in sub-clause (3) of the said clause 5,

(d) the use or carrying out of the designated test by the Gynaecologist unless the conditions mentioned in paragraph (a) of sub-clause (4) of clause 5 exist and written consent of the female in relation to whom the designated test is to be used is obtained.

*Clause 6.*—This clause empowers the State Government to appoint Inspectors.

*Clause 7.*—This clause provides for powers of the Inspectors to enter, search and seize.

*Clauses 8, 9, 10, 11, 12, 13 and 14.*—These clauses provide for penalty for contraventions of clauses 3, 4 and 5.

*Clause 15.*—This clause provides for confiscation of apparatus, equipments and instruments used in commission of an offence under clause 8 or 13.

*Clause 17.*—This clause empowers the Court to report the name of a registered medical practitioner convicted of an offence under clause 8, 12, or 13, to the Gujarat Medical Council for disciplinary action by the Council against the practitioner.

*Clause 19.*—This clause provides for power of the State Government to make rules.

*Clause 20.*—This clause saves the use or carrying out of specified test or designated test, solely for the purpose of medical education and research other than that related to sex determination by persons mentioned therein.

Dated the 20th February, 1997.

Dr. DINESH FARMAR  
M.L.A.

## FINANCIAL MEMORANDUM

Clause 6 of the Bill empowers the State Government to appoint Government officers possessing prescribed qualifications to be Chief Inspector and Inspectors to exercise the powers of Inspectors for the purposes of the Act. Since only existing Government officers are to be appointed, such appointment will not involve any additional expenditure from the Consolidated Fund of the State.

Dated the 20th February, 1997.

Dr. DINESH PARMAR  
M.L.A.



## MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:—

*Clause 1.*—Sub-clause (3) of this clause empowers the State Government to appoint by notification in the *Official Gazette* the date on which the remaining provisions of the Act shall come into force.

*Clause 2.*—(i) Paragraph (v) of sub-clause (b) of this clause empowers the State Government to specify by notification in the *Official Gazette* any other test to be a designated test.

(ii) Paragraph (iv) of sub-clause (f) of this clause empowers the State Government to specify by notification in the *Official Gazette* any other test to be a specified test.

*Clause 5.*—(i) Item (vii) in sub-clause (3) of this clause empowers the State Government to specify by notification in the *Official Gazette* any other abnormality or disease for the purposes of the said sub-clause (3).

(ii) Item (v) in paragraph (a) of sub-clause (4) of this clause empowers the State Government to specify by notification in the *Official Gazette* any other condition for the purposes of the said paragraph (a).

(iii) Paragraph (b) of the said sub-clause (4) empowers the State Government to prescribe by rules, the form in which a written consent of a female shall be obtained.

*Clause 6.*—Sub-clauses (1) and (2) of this clause empowers the State Government to appoint respectively the Inspectors and the Chief Inspector for the purposes of the Act.

*Clause 7.*—This clause empowers the State Government to make rules subject to which an Inspector may exercise the powers of entry, search and seizure within the local limits for which he is appointed.

*Clause 19.*—This clause empowers the State Government to make by notification in the *Official Gazette* rules generally for carrying out the purposes of the Act and particularly for all or any of the matters specified in sub-clause (2).

*Clause 20.*—Sub-clause (c) of this clause empowers the State Government to authorise by notification in the *Official Gazette* certain professors and associate professors to use or carry out any designated test or specified test for the purpose of medical education and research.

2. The delegation of powers as proposed is necessary and is of a normal character.

Dated the 20th February, 1997.

Dr. DINESH PARMAR  
M.L.A.

Gandhinagar,  
Dated the 20th March, 1997.

V. H. DAVE,  
Secretary,  
Gujarat Legislative Assembly,



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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 20th March, 1997, by  
 Shri Dr. DINESH PARMAR, M.L.A. is published under rule 127-A of the  
 Gujarat Legislative Assembly Rules for general information:—

**"GUJARAT BILL NO. 27 OF 1997."**

**THE GUJARAT RESERVATION OF VACANCIES IN POSTS AND SERVICES  
 (FOR SCHEDULED CASTES AND SCHEDULED TRIBES) BILL, 1997.**

**A BILL**

*to provide for adequate representation of Scheduled Castes and Scheduled Tribes in  
 posts and services under the State:*

It is hereby enacted in the Forty Eighth year of the Republic of India as  
 follows:—

1. (1) This Act may be called the Gujarat Reservation of Vacancies in  
 Posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 1997.

Short  
 title,  
 extent  
 and commen-  
 cement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may,  
 by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise, requires,—

Definitions.

(a) "Prescribed" means prescribed by rules made under this Act,

(b) "recruitment year" means the financial year during which a recruitment is actually made,

(c) "reservation" means reservation of vacancies in posts and services for the Scheduled Castes and Scheduled Tribes,

(d) "Scheduled Castes" shall have reference to the Scheduled Castes specified in the Constitution (Scheduled Castes) Order, 1950 made under Article-341 of the Constitution of India and as amended from time to time,

(e) "Scheduled Tribes" shall have reference to the Scheduled Tribes specified in the Constitution (Scheduled Tribes) Order, 1950 made under Article 342 of the Constitution of India and as amended from time to time,

(f) "Select list" means the list of candidates arranged in order of precedence prepared according to the rules and orders issued by the State Government in that behalf and adopted by the competent authority for making appointment in respect of initial recruitment and promotions,

(g) "State" means the Government of the State of Gujarat.

Applicability.

### 3. This Act shall apply to,-

(1) All appointments to the posts and services under the State except,-

(a) those meant for conducting or guiding or directing research;

(b) those classified as scientific posts;

(c) those filled up on the basis of any contract;

(d) ex-cadre posts,

(e) those which are filled up by transfer or deputation;

(f) such other posts as the State Government may, from time to time by order specify:

Provided that all orders made under clause (f) shall, as soon as after they are made, be laid before the State Legislature for not less than thirty days which may be comprised in one or more sessions,

(2) all appointments to the district level posts,

(3) all appointments in the Panchayats, Boards and Corporation constituted by the State Government.

(4) all appointments in institutions aided by the State Government,

(5) all other appointments, which the State Government may specify from time to time.

Reservation and the percentage thereof.

4. (1) Except as otherwise provided in this Act, the vacancies reserved for the Scheduled Castes and the Scheduled Tribes shall not be filled up by candidates not belonging to the Scheduled Castes and Scheduled Tribes.

(2) The reservation of vacancies in posts and services shall be at such percentage of the total number of vacancies as the State Government may, from time to time by order determine :



**Provided that—**

(a) in the case of initial recruitment the percentage so determined shall, in no case be less than the percentage of the persons belonging to the Scheduled Castes or the Scheduled Tribes as the case may be, in the total population of the State,

(b) in the case of initial recruitment the district level posts, the percentage so determined shall, in no case be less than the percentage of the persons belonging to the Scheduled Castes or the Scheduled Tribes as the case may be, in the total population of that district and in no case be less than the percentage of persons belonging to the Scheduled Castes or the Scheduled Tribes as the case may be, in the total population of the State.

(c) save as otherwise provided in this Act, in the case of appointments by way of promotions the percentage of reservation shall be such as is laid down in paragraphs (a) and (b).

**Explanation.**—The expression "population" means the population as ascertained at the last census for which the relevant figures have been published.

5. (1) The State Government shall prescribe model roster indicating the number of vacancies to be reserved for the Scheduled Castes and Scheduled Tribes and the number of vacancies to be left unreserved.

(2) The appointing authorities shall maintain roster in the prescribed form.

(3) The roster shall be consulted for ascertaining the number of reserved vacancies only but the appointment shall be made in accordance with the order of precedence as shown in the select list.

6. If, in any recruitment year, the number of candidates either from Scheduled Castes or Scheduled Tribes is less than the number of vacancies reserved for them the remaining vacancies may be filled up by general candidates after dereserving the vacancies in the prescribed manner, but the vacancies so dereserved shall be carried forward to the subsequent three years of recruitment.

7. For initial appointments for the candidates belonging to Scheduled Castes and Scheduled Tribes—

(a) the upper age-limit prescribed for recruitment shall be relaxed by five years.

(b) fee prescribed for application for any post shall be one fourth of what it is for others.

(c) travelling allowance to attend competitive written examination and oral interview shall be paid at such rates as may be prescribed by the State Government.

(d) percentage of passing the competitive and departmental examinations shall be relaxed by 5 percent.

8. (1) For recruitment through employment exchange the number of vacancies reserved for Scheduled Castes and Scheduled Tribes shall be specified in the requisition to be sent to the employment exchange against the total number of vacancies.

(2) For recruitment to be made through the Gujarat Public Service Commission or any Selection Board on the basis of competitive examination or interview the advertisement shall specify the number of vacancies reserved for Scheduled Castes and Scheduled Tribes against the total number of vacancies.

(3) The Scheduled Castes and Scheduled Tribes candidates shall be recruited to the extent of the reserved vacancies if they possess the minimum qualifications required for the posts or services.

(4) If the required number of Scheduled Castes and Scheduled Tribes candidates are not available for filling up the reserved vacancies, a fresh recruitment shall be made only from candidates belonging to the Scheduled Castes or Scheduled Tribes, as the case may be, for filling up the remaining reserved vacancies.

(5) If after making such fresh recruitment candidates belonging to the Scheduled Castes or Scheduled Tribes are still not available or if the number of such candidates is less than number of reserved vacancies, the vacancies which remain unfilled shall be filled up by general candidates in accordance with the procedure laid down in section 6.

(6) For district level posts if the candidates belonging to Scheduled Castes or Scheduled Tribes, as the case may be, are not available in the district employment exchange in sufficient number at the time of initial recruitment, the employment exchange of other districts where there is large population of Scheduled Castes or Scheduled Tribes, as the case may be, shall be consulted.

9. (1) Where promotion is to be made on the basis of seniority subject to fitness, the Scheduled Castes and Scheduled Tribes officers shall be promoted to the next higher post or grade against reserved vacancies provided they possess the minimum qualifications and experience required for such promotion. Promotion based on seniority cum-fitness.

(2) The number of reserved vacancies shall be determined on the basis of the reserved posts shown in the roster maintained under Section 5.

10. Where promotion is to be made on the basis of selection and the element of direct recruitment does not exceed fifty percent, the procedure for filling up of the reserved vacancies shall be such as may be prescribed and the number of reserved vacancies shall be determined on the basis of the reserved points shown in the roster maintained under Section 5. Promotion based on selection.

11. Where selection is to be made from different services the recruitment or appointing authority shall select Scheduled Castes and Scheduled Tribes candidates to the extent of reserved quota, provided such candidates satisfy the minimum conditions of suitability, qualification and experience laid down in respect of the post concerned. Selection from different services.

12. (1) Every appointment authority shall furnish to the State Government annual report in the prescribed manner by the end of the month of June of the succeeding financial year and maintain such other records as may be prescribed. Submission of Annual Report, Maintenance of other records and inspection thereof.

(2) Any officer authorised by the State Government in that behalf may inspect any record or documents and require the appointing authority to produce the roster and other records relating to appointments made by it and which are maintained in its office.

(3) It shall be the duty of the appointing authority to produce such records and documents, furnish such information and afford all such assistance and facilities as may be necessary for the aforesaid purpose.

Nomina-  
tion of  
Liaison  
Officer.

13. In each department of the State Government an officer not below the rank of an Under Secretary authorised by the Secretary of the department in that behalf shall act as Liaison Officer in respect of the matter provided in this Act who shall be specially responsible for:-

(a) ensuring proper implementation of the provisions of this Act and the rules made thereunder,

(b) ensuring compliance by the subordinate authorities,

(c) ensuring timely submission of returns,

(d) conducting annual inspections of rosters and such other record as may be prescribed.

(e) acting as Liaison Officer between the administrative department and the Social Welfare Department.

(f) ensuring necessary assistance to the Social Welfare department in the investigation of complaints received from individuals or organisations belonging to Scheduled Castes and Scheduled Tribes.

Consti-  
tution of  
Standing  
Committee.

14. (1) There shall be a Standing Committee consisting of the following members, Namely :-

(a) The Minister for Social Welfare -- Chairman.

(b) Three members of the Gujarat Legislative Assembly to be elected in such manner as may be determined by the Speaker of the Gujarat Legislative Assembly -- Members.

(c) The Chief secretary to Government -- Member.

(d) The Secretary to Government, Home Department -- Member.

(e) The Secretary to Government, Social Welfare Department -- Member Secretary.

Provided that on issue of a proclamation under Article 356 of the Constitution of India the composition of the committee may be altered by the State Government to such extent as it may deem fit.

Function  
of the  
standing  
committee.

15. (1) the committee shall meet at least thrice a year and the period between any two meetings shall not be less than six months.

(2) The Committee shall perform the following functions, namely :-

(i) review of the implementation of the provisions of this act and rules made thereunder,

(ii) suggest measures for the removal of difficulties in such implementation or for the improvement thereof and

(iii) such other function as the State Government may from time to time assign to the Committee.



Annual  
Report.

16. The State Government shall prepare an annual report on the working of the Act and lay the same before the State Legislature for a period of not less than fifteen days in the Budget Session of the succeeding financial year.

Punish-  
ment  
and  
Penalty.

17. The State Government shall prescribe punishment and penalty for non-implementation of this Act and the rules made thereunder.

Legal  
aid.

18. Legal aid shall be made available by the State Government at the prescribed rates to the employees belonging to Scheduled Castes and Scheduled Tribes in cases of their grievances.

Rule  
making  
power.

19. (1) The State Government may, by notification in the Official Gazette (after previous publication), make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, they may make rules in respect of all matters expressly required or allowed by this Act to be prescribed.

(3) All rules made under this Act shall, as soon as may be, after they are made, be laid before the State Legislature for not less than thirty days which may be comprised in one or more sessions and if during the said period, the State Legislature makes any modifications therein, the rules shall thereafter have effect only in such modified form so however that such modifications shall be without prejudice to the validity of any thing previously done under the rules.

Overrid-  
ing  
effect  
of the  
Act.

20. the provisions of this Act shall have effect notwithstanding anything to the contrary in any other law or in any rule, order or resolution made by the State Government.

## STATEMENT OF OBJECTS AND REASONS.

According to Constitutional provisions, the State Government have made several administrative orders for implementation of policy of reservation for Scheduled Castes and Scheduled Tribes. But due to lack of effective control the provisions of such administrative order could not be strictly implemented and the employees belonging to Scheduled Castes and Scheduled Tribes have to face injustice many a time. This Bill, therefore, provides for the effective implementation of the policy.

Gandhinagar,

Dr. DINESH PARMAR,

Dated the 20th February, 1997.

M.L.A.

## FINANCIAL MEMORANDUM

Clause 14 of the Bill requires the State Government to constitute standing committee and Clause 15 requires atleast three meetings to be held in a year. Clause 17 requires the State Government to make available legal aids to employees belonging to Scheduled Castes and Scheduled Tribes at the prescribed rates. It is estimated that the expenditure to be involved from the Consolidated Fund of the State in regard to above provisions would be about rupees two lakhs per annum.

Gandhinagar,

Dr. DINESH PARMAR,

Dated the 20th February, 1997.

M.L.A.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of Clause 1, empowers the State Government to appoint by notification in the Official Gazette the date on which the Act shall come into force.

Paragraph (f) of sub-clause (1) of clause 3 empowers the State Government to specify by order posts other than those specified in the sub-clause.

Sub-clause (3) of clause 3 empowers the State Government to specify from time to time appointments other than those specified in the preceding sub-clauses.

Sub-clause (2) of clause 4 empowers the State Government to determine the percentage of reservation of vacancies in posts and services.

Sub-clause (1) of clause 5 empowers the State Government to prescribe model roster.

Sub-clause (2) of clause 5 empowers the State Government to prescribe form for maintaining roster.

Clause 6 empowers the State Government to prescribe manner for filling up reserved vacancies by general candidates in case the number of candidates from Scheduled Castes and Scheduled Tribes is less than the number of vacancies reserved for them.

Paragraph (c) of clause 7 empowers the State Government to prescribe rates of travelling allowance to be paid to the candidate belonging to the Scheduled Castes and Scheduled Tribes for attending competitive examination or oral interviews.

Clause 10 of the Bill empowers the State Government to prescribe procedure for filling up the reserved vacancies where promotion is to be made on the basis of selection and the element of direct recruitment does not exceed fifty percent.

Sub-clause (1) of clause 12 empowers the State Government to prescribe a manner for furnishing annual report to the State Government and to maintain other records.

Paragraph (d) of clause 13 empowers the State Government to prescribe other records the Liaison Officer shall be responsible for conducting annual inspection.

Paragraph (b) of clause 14 empowers the Speaker of the Gujarat Legislative Assembly to determine manner for electing members of the Assembly on the Standing Committee.

The proviso to clause 14 empowers the State Government to alter the composition of the Standing Committee on issue of proclamation under Article 356 of the Constitution to such extent as it may deem fit.

Paragraph (iii) of sub-clause (2), of clause 15 empowers the State Government to assign to the Standing Committee other function from time to time.

Clause 17 of the Bill empowers the State Government to prescribe rates for making available legal aid to the employees belonging to the Scheduled Castes and Scheduled Tribes.

Sub-clause (1) of clause 18 empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is essential and of normal character.

Gandhinagar,

Dated the 20th February, 1997.

Dr. DINESH PARMAR,

M.L.A."

Gandhinagar,

Dated the 20th March, 1997.

V. H. DAVE,

Secretary,

Gujarat Legislative Assembly





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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 20th March, 1997 by  
 Shri Dr. SHANTABEN CHAVDA M.L.A is published under rule 127-A  
 of the Gujarat Legislative Assembly Rules for general information :—

"Gujarat Bill No. 28 of 1997."

**THE GUJARAT SLUM AREAS (IMPROVEMENT,  
 CLEARANCE AND REDEVELOPMENT)  
 (AMENDMENT) BILL, 1997.**

**A BILL**

*further to amend the Gujarat Slum Areas (Improvement,  
 Clearance and Redevelopment) Act, 1973.*

It is hereby enacted in the Forty-eighth Year of the Republic of  
 India as follows :—

Short title  
and Com-  
mence-  
ment.

1. (1) This Act may be called the Gujarat Slum Areas (Improve-  
 ment, Clearance and Redevelopment) (Amendment) Act, 1997.

2. It shall come into force at once.

Insertion of  
new section  
16A in Guj.  
11 of 1973.

2. In the Gujarat Slum Areas (Improvement, Clearance and  
 Redevelopment) Act, 1973 (hereinafter referred to as "the principal  
 Act"), after section 16, the following new section shall be inserted,  
 namely :—

Guj. 11  
of 1973.

Construction  
of houses for  
slum dwellers.

"16-A (1) Notwithstanding anything contained in the foregoing provisions all the buildings and land underlying them situated in the slum clearance area declared under section 11 shall vest free from all encumbrances in the Board immediately after the notification under section 11 is published in the *Official Gazette*.

(2) If the land or property so vested in the Board does not belong to the Government the Board shall pay compensation to the owner at such rate as may be determined by the Collector under section 15 of the Land Acquisition Act, 1894 as if the property was acquired by the Government under the Land Acquisition Act, 1894. 1 of 1894.

(3) The Board shall evict the slum dwellers from the slum clearance area and make temporary arrangement for their residence in nearby areas until new houses are constructed for them by the Board.

(4) The Board shall then demolish existing houses and construct new houses for the slum dwellers within a period of two years from the date of eviction of the slum dwellers preferably on the same site from which they were evicted.

(5) The State Government shall pay 80 percent of the cost per house to the Board as a subsidy and the remaining 20 percent shall be treated as loan advanced by the Board to the occupants and it shall be recovered from the occupants within a period of 20 years in equal monthly instalments."

Amendment  
of section 27  
of Guj. 11 of  
1973.

3. In the principal Act, in section 27, after clause (o), the following new clause shall be inserted, namely :—

"(cc) to construct houses for slum dwellers".

## STATEMENT OF OBJECTS AND REASONS

The population of slum dwellers is increasing by leaps and bounds and the authorities have miserably failed to solve their housing problem which is the basic necessity of civil life. In certain cities the population of the slum dwellers have gone to very high mark and most of their houses having no facility of light, water, drainage, sanitation, etc., are unfit for human habitation. The civil life will become impossible and the slum dwellers will be driven to the life of hell unless a ruthless planned work is undertaken for their rehabilitation and for construction of their houses on a war-footing. So, a time bound programme is must and hence this Bill.

Dated the 5th March, 1997.

DR. SHANTABEN CHAVDA,  
M.L.A.

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for subsidy by the State Government for construction of the houses. It is estimated that the Bill will involve an annual expenditure of Rs. 5 crores from the Consolidated Fund of the State.

Dated the 5th March, 1997.

DR. SHANTABEN CHAVDA,  
M.L.A."

Gandhinagar,  
Dated the 20th March, 1997.

V. H. DAVE,  
Secretary,  
Gujarat Legislative Assembly.





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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 20th March, 1997, by Shri Shantaben Chavda, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

**"Gujarat Bill No. 29 of 1997."**

**THE GUJARAT DISTRICT COMMITTEES FOR IMPLEMENTATION OF POLICIES  
 AND PROGRAMMES OF STATE GOVERNMENT BILL, 1997.**

**A BILL**

*to provide for constitution of district committees for implementation of policies and programmes of the State Government and for matters connected therewith.*

It is hereby enacted in the Forty Eighth year of the Republic of India as follows:—

Short  
title,  
extent  
and com-  
mencement.

1. (1) This Act may be called the Gujarat District Committees for Implementation of Policies and Programmes of State Government Act, 1997.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

**Definitions.**

(i) "Authority" means the State Government, Municipal Corporation, Municipality, Panchayat or any of its office bearers.

(ii) "Committee" means the District Committee constituted under section 3.

(iii) The term "Local Authority" includes Municipal Corporation, Municipality or Panchayat in the district.

(iv) "prescribed" means prescribed by rules made by the State Government.

3. (1) The State Government shall constitute for each District of the State a District Committee.

**District committee.**

(2) The Committee shall consist of members nominated by the State Government and *ex-officio* members as follows:—

#### **Nominated Members**

- (i) Two members from the agriculturists of the district.
- (ii) Two members from the agricultural labourers of the district.
- (iii) Two members from the owners of small scale industries of the district.
- (iv) Two members from other industries of the district.
- (v) Four members from the industrial labourers.
- (vi) Two members from the persons running cottage industries in the district.
- (vii) Two representative of the traders of the district.
- (viii) Four members from the weaker sections of the district.
- (ix) Two representatives of co-operative societies in the district.
- (x) An officer of the Gujarat Electricity Board.
- (xi) Executive Engineer.

#### **Ex-Officio Members**

- (i) M. L. A. As. of the district.
- (ii) President of the district panchayat.
- (iii) District Superintendent of Police.
- (iv) Mayor of Municipal Corporation and President of Municipalities from the District.
- (v) District Industries Officer.
- (vi) Collector.
- (vii) District Development Officer.
- (viii) District Education Officer.

(3) The Chairman shall be nominated by the State Government from amongst the members of the Gujarat Legislative Assembly representing the district.

(4) The President of the district panchayat shall be the *ex,officio* Vice-Chairman of the Committee.

Committee  
Staff.

4. (1) The secretary and other staff to aid and advise the Committee shall be such as may be prescribed.

(2) The secretary and other staff of the Committee shall be appointed by the Chairman in such manner as may be prescribed.

Functions  
of  
Committee.

5. The functions of the Committee shall be..

(i) to invite memoranda containing objections, suggestions, grievances etc. on matters of public importance concerning Government and Local administration from the individuals, organisations and associations from the district:

Provided that the grievances of an individual shall not be entertained by the Committee unless it is of a serious nature involving harassment to a person either due to collousness or corruption on the part of the public servant,

(ii) to consider the memoranda received and recommend action to be taken by the authority concerned on the points raised in the memoranda,

(iii) to consider the points proposed by the members of the Committee and admitted by the Chairman and suggest action to be taken on those points by the Government or any other local authority,

(iv) to consider the action taken or view point expressed by the concerned authority on the recommendations of the Committee,

(v) to discharge such other functions as may be prescribed.

Secretary.

6. The Secretary appointed under section 4 shall be incharge of the administration of the Committee Secretariat and shall work as the Secretary to the Committee.

Functions  
of  
Secretary.

7. The functions of the Secretary shall be.

(i) to prepare points and arrange them in such order as may be directed by the Chairman giving priority to the urgent and important matters for inclusion in the agenda,

(ii) to record decisions of the Committee and to send them to the authority concerned for taking necessary actions thereon.

Right of  
members to  
suggest  
points.

8. Any member of the Committee may suggest point for consideration of the Committee containing any of the following matters:—

(i) suggesting measures for effective implementation of the policies and programmes of the Government and local authorities,

(ii) suggesting ways and means of economy in expenditure by the Government and local authorities.

(iii) suggesting ways and means to reduce and redress grovances of the people of the district.



(iv) suggesting time limit for the disposal of applications made by the public to the various authorities of Government and local authorities.

(v) suggesting methods of making the administration public oriented.

9. (1) The Committee shall meet atleast thrice in a year and the period between any two meetings shall not be more than six months.

Meetings  
of  
Committee.

(2) The Committee shall discuss and deliberate on the points put up before it for consideration. The decision taken in the meeting shall be recorded by the Secretary.

10. For the performance of their duties under this Act, be Chirman and the members of the Committee shall be entitled to payment of such compensatory allowances and at such rates as may be prescribed.

Payment of  
allowances  
to Chairmans  
and members  
of  
Committee.

11. No person shall be disqualified for being chosen as or for being a member of the Legislative Assembly of the State by reason only of the fact that he is Chairman or member of the Committee.

No disquali-  
fication in  
certain  
cases.

12. (1) The State Government may, by notification in the *Official Gazette* make rules for carrying out the purposes of this Act.

Power to  
make rules.

(2) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to such modification as the Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any modifications so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

## STATEMENT OF OBJECTS AND REASONS

At present the best policies and programmes of the State Government remain on paper because the bureaucracy who has to implement them has no interest or least interest in their implementation. Besides there is no effective control over bureaucracy. As such the benefits of policies and programmes of the Government do not reach to the people who are to be uplifted.

An aggrieved man or an applicant hardly gets any response from the administration which has become callous and irresponsible. Delaying tactics are employed by the public servants to lead corruption. There is no effective machinery in the State to help the common man in repressing their grievances.

The district co-ordinating committees, and planning boards at the district level are presided over by the Collectors, Members of Parliament and the State Assembly are ordinary members. This situation is unbearable, unproductive and of no good to achieve any expected result.

In the above circumstances it appears that the representative of the people should be actively associated with administration to help the poor and illiterate people in redressing their grievances.

This Bill seeks to provide for a forum where the representatives of different sections of the society and officers incharge of the administration of State and local authorities can meet to discuss the problems of the people, can exchange their views and come to the conclusion as to how the problems could be solved effectively and speedily. The bill provides for constitution of District Committee consisting of representative of different sections of the society in the district and officers incharge of public administration. It is proposed that such a committee should be headed by a member of the Legislative Assembly. The proposed committee is empowered to consider measures of economy in public expenditure and to suggest improvement in the administration.

The Bill sees to achieve the aforesaid objects.

Dated 5th March, 1997.

DR. SHANTABEN CHAVDA,  
M. L. A.



**MEMORANDUM REGARDING DELEGATED LEGISLATION**

Clause 3(2) empowers the State Government to nominate the members on the district committee.

Clause 3(3) empowers the State Government to nominate the chairman of the committee.

Clause 4(1) empowers the State Government to prescribe the staff of the Committee.

Clause 4(2) empowers the State Government to prescribe the manner in which the Secretary and other staff of the Committee shall be appointed.

Clause 5(v) empowers the State Government to prescribe the functions of the Committee other than those mentioned in this clause.

Clause 10 empowers the State Government to prescribe the rate of compensatory allowance payable to the Chairman and members of the Committee.

Clause 12 empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is necessary and is of normal character.

Dated the 5th March, 1997.

**DR. SHANTABEN CHAVDA,**  
**M.L.A."**

**FINANCIAL MEMORANDUM**

Clause 3 of the Bill provides for the constitution of the Committee. Clause 4 of the Bill provides for appointment of the Secretary and other staff of the Committee. Clause 10 of the Bill provides for payment of compensatory allowances to the Chairman and members of the Committee. These provisions would involve expenditure from the Consolidated Fund of the State. But it is difficult to give an extra amount of expenditure. It is however estimated that a recurring expenditure of Rs. 10 lacs would be required from the Consolidated Fund of the State every year.

Dated the 5th March, 1997.

**DR. SHANTABEN CHAVDA,**  
**M.L.A.,**

Gandhinagar,  
Dated the 20th March, 1997.

**V. H. DAVE,**  
Secretary,  
Gujarat Legislative Assembly.





**The Gujarat Government Gazette**  
**EXTRAORDINARY**  
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THURSDAY, MARCH 20, 1997/PHALGUNA 29, 1918

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 20th March, 1997 by Shri DR. SHANTABEN CHAVDA M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

**" Gujarat Bill No. 30 of 1997.**

**THE GUJARAT COMPULSORY CENSORSHIP OF  
PUBLICITY MATERIALS BILL, 1997.**

**A BILL**

*to provide for compulsory censorship of publicity materials in the  
State of Gujarat.*

It is hereby enacted in the Forty Eighth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Compulsory Censorship of Pulicity Materials Act, 1997.

Short title,  
extent and  
commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force in such areas and on such dates as the State Government may, by notification, in the Official Gazette appoint and different dates may be appointed for different areas.

**Definitions.**

2. In this Act, unless the context otherwise requires,—

(a) 'Board' means the Gujarat Board of Censorship constituted under section 4;

(b) 'Certificate of Censorship' means a Certificate of Censorship in respect of publicity material granted under section 7;

(c) 'Chairman' means the Chairman of the Board;

(d) 'Government' means the State Government;

(e) 'Member' means a member of the Board;

(f) 'objectionable publicity material' means any publicity material—

(i) which is obscene; or

(ii) which is likely to—

(A) incite any person to commit any offence involving violence; or

(B) offend against decency or morality; or

(C) promote on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony, feelings of enmity or hatred or ill-will between different religious, racial, linguistic or regional groups or castes or communities;

*Explanation I.*—A publicity material shall be deemed to be obscene if it is lascivious or appeals to the prurient interest or if its effect, or where it comprises two or more distinct items the effect of any one of its items, is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read or see the matter contained or embodied in it, or if it portrays, exhibits or shows a picture drawing, painting or figure of a female human being of any age in such posture which is offensive to senses or which is likely to suggest any indecent or impure or immoral ideas in the minds of persons who are likely to read or see the matter contained or embodied in it.

*Explanation II.*—A publicity material shall not be deemed to be objectionable merely if it—

(1) expresses disapprobation or criticism of any law or of any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means; or

(2) criticises any social or religious practice without malicious intention and with an honest view to promote social or religious reform or social justice.

(g) 'place open to public view' includes any private place or building, monument, statue, post, wall, fence, tree or other thing or contrivance visible to a person being in, or passing along, any public place;

(h) 'public place' means any place (including a road, street or way, whether a thoroughfare or not and a landing place) to which the public are granted access or have a right to resort, or over which they have a right to pass;

(i) 'publicity material' means any material which is produced in India or in any country outside India for giving publicity or anything other than publicity material relating to a cinematography film and includes—

(i) hoarding, showcard, insert, press design and enlargement;

(ii) poster;

(iii) still photo;

(iv) slide;

(v) still for publication in newspapers and periodicals, and

(vi) such other material as may be prescribed.

3. (1) No person shall affix to or exhibit on, any place open to public view any publicity material without a Certificate of Censorship.

Exhibition  
of publicity  
material.

(2) Every publicity material exhibited shall bear in such manner as may be prescribed, the number and date of Certificate of censorship granted in respect of such publicity material.

4. (1) For the purpose of granting Certificate of Censorship in respect of publicity material, the Government may, by notification, in the *Official Gazette* constitute a Board to be called the Gujarat Board of Censorship which shall consist of a Chairman and not more than five other members appointed by the Government.

Board of  
Censorship.

(2) The Censor Officer appointed under sub-section (1) of section 5 shall be the Member-Secretary to the Board.

(3) The Chairman and the members shall hold office for such term as may be prescribed.

(4) The Chairman shall receive such remuneration as may be determined by the Government and the members, other than the Censor Officer, shall receive such allowances or fees for attending meetings of the Board as may be prescribed.



(5) The meetings of the Board shall be held at such place and time and in such manner as may be prescribed.

(6) No person shall be eligible for appointment as Chairman or Member of the Board, unless he has completed the age of thirty-five years.

Censor  
Officer and  
other staff.

5. (1) For carrying out the purposes of this Act, the Government shall appoint a Censor Officer and may also appoint such number of Assistant Censor Officers, Inspectors and other Officers and staff as the Government may think fit to assist the Censor Officer.

(2) The Censor Officer, the Assistant Censor Officers and Inspectors may inspect any place and may call for any document relating to any publicity material from any person responsible, for the exhibition of such publicity material.

(3) The Censor Officer, Assistant Censor Officers and Inspectors shall exercise such powers and perform such other functions as may be prescribed.

Application  
for Certificate  
of  
Censorship.

6. (1) If any person wants to exhibit in any place open to public view any publicity material, he shall make an application to the Board in such form as may be prescribed, for a Certificate of Censorship and shall submit such material alongwith the application in such manner as may be prescribed.

(2) Every application under sub-section (1) shall be accompanied by such fee as may be prescribed.

Grant of  
Certificate  
of Censor-  
ship.

7. (1) The Censor Officer shall examine the publicity material submitted under section 6 and place the publicity material together with his recommendations if any, before the Board for its consideration.

(2) The Board shall, within a period of two weeks, after examining the publicity material and the recommendations of the Censor Officer in the prescribed manner,--

(i) grant a certificate of publicity materials censorship in such form and in such manner as may be prescribed; or

(ii) direct the applicant to carry out such alterations or modifications in the publicity material as it thinks necessary before sanctioning the publicity materials for public exhibition; or

(iii) refuse to grant a certificate of publicity materials censorship, for public exhibition.

(3) No action under clause (ii) and clause (iii) of sub-section (2) shall be taken by the Board except after giving an opportunity to the applicant, for representing his views in the matter.

(3) Every Certificate of Censorship shall be signed by the Censor Officer or, in his absence, by such Assistant Censor Officer as may be empowered in this behalf by the Board and the publicity material shall then be returned to the person who submitted it.

8. (1) Any person aggrieved by any decision of the Board may, within thirty days from the date of receipt of such decision, make an appeal to such authority as the Government may prescribe and such authority may, after such inquiry as it considers necessary and after giving the appellant an opportunity for representing his views in the matter, make such order in relation thereto as it thinks fit.

Appeal.

(2) The Order of the authority referred to in sub-section (1) shall be final.

9. (1) Whoever affixes to, or exhibits, on any place open to public view any objectionable publicity material shall be punished with imprisonment of either description for a term which may extend to three years or with fine which may extend to three thousand rupees, or with both.

Penalty.

(2) Whoever affixes to or exhibits on any place open to public view any publicity material in respect of which a Certificate of Censorship has not been granted by the Board under section 7, or which does not bear in the manner prescribed the number and date of the Certificate of Censorship, shall be punished with imprisonment of either description which may extend to three years or with fine which may extend to three thousand rupees or with both and in the case of a continuing offence with a further fine which may extend to one hundred rupees for each day during which the offence continues.

(3) If any person is convicted of an offence punishable under sub-section (1) or sub-section (2), the convicting court may further direct that the publicity material in respect of which the offence has been committed be forfeited to the Government.

10. Whoever in any manner whatsoever, causes, procures, counsels, aids, abets or is necessary to the commission of any offence under sub-section (1) or sub-section (2) of section 9 shall be punished with the punishment provided for the offence.

Punishment of abettor.

11. No Act or proceeding of the Board shall be deemed to be invalid by reason only of vacancy in, or any defect in the constitution of, the Board.

Validation.

12. (1) Subject to such conditions as may be prescribed, the prescribed authority by a general or special order in this behalf may, either before or after the institution of proceedings under this Act, accept from the person who has committed or is reasonably suspected of having committed an offence under this Act, by way of composition of such offence, a sum of money not exceeding two thousand rupees.

Power to compound offence.

(2) On payment of such sum of money, such person shall be discharged and no further proceedings shall be taken against him in respect of such offence.

Power to  
seize.

13. It shall be lawful for any police officer not below the rank of an officer-in-charge of a police station to seize—

(a) any objectionable publicity materials; or

(b) any publicity material—

(i) in respect of which no Certificate of Censorship has been obtained under this Act, or

(ii) which does not bear the number and date of the Certificate of Censorship, and such police officer shall forthwith report the seizure to the Magistrate having jurisdiction and where the publicity material seized is such that it cannot be conveniently transported to the court, he may give custody thereof to any person on his executing a bond undertaking to produce the publicity material before the court as and when required and to give effect to the further orders of the court as to the disposal of the same.

Chairman  
and  
Members  
to be public  
Servants.

14. The Chairman and the members, shall of the Board, when acting or purporting to act in pursuance of the provisions of this Act or the rules made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV  
of  
1860.

Bar to legal  
proceeding.

15. No suit or other legal proceeding shall lie against the Chairman, members and the officers and staff appointed under this Act in respect of anything which is in good faith done or intended to be done under this Act or any rules made thereunder.

Offence by  
Companies.

16. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to, any neglect on the part of any director, manager, Secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section:—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.



17. (1) The Government may make rules for carrying out all or any of the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for—

- (a) all matters expressly required or allowed by this Act, to be prescribed;
- (b) the term of office of the Chairman and the members;
- (c) the remuneration payable to the Chairman ;
- (d) the allowances or fees payable to the members ;
- (e) the place and time at which and the manner in which the meetings of the Board shall be held ;
- (f) the powers and functions of the Censor Officer, Assistant Censor officers and Inspectors;
- (g) the form of application for a Certificate of Censorship;
- (h) the manner of submitting publicity materials ;
- (i) the fee to be paid for Certificate of Censorships;
- (j) the form and the manner in which the Certificate of Censorship shall be granted ;
- (k) the authority to whom appeal shall be preferred under sub-section (1) of section 8 ; and
- (l) the authority to compound the offence under section 12.

(3) In making any rule under this Act, the Government may provide that a breach thereof shall be punishable with a fine which may extend to five hundred rupees.

(4) (a) All rules made under this Act, shall be published in the Government Gazette, and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published

(b) All notifications issued under this Act, shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(5) Every rule made or notification issued under this Act, shall as soon as possible after it is made or issued, be placed on the table of the Legislative Assembly and if, before, the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in

any such rule or notification or the Assembly decides that the rule or notification should not be made or issued, the rule or notification shall there after have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Saving.

18. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt any persons from any proceeding by way of investigation or otherwise which might, apart from this Act, be instituted against him.

### STATEMENT OF OBJECT AND REASONS

It has come to the notice that quite a number of publicity materials like posters (other than cinematograph publicity) materials which are likely to incite persons to commit offences involving violence or offend against decency or morality or promote hatred on grounds of religion, race, etc., among regional groups, caste or communities are on the increase.

2. With a view to curb effectively such provocative publicity materials, it is necessary to enact a legislation to provide for the pre-censorship of the publicity materials other than publicity materials relating to cinematograph films.

3. Hence the Bill.

Dated the 5th March, 1997.

DR. SHANTABEN CHAVDA,

M. L. A.

### MEMORANDUM REGARDING DELEGATED LEGISLATION.

Clause 2 (i), 3(2), 4, 5 (3), 6, 7 (2), 8 (1), 9 (2), 12 (1) and 17 of the Bill authorise the Government to prescribe the manner and method of giving effect to certain provisions of the proposed bill by making suitable Rules thereunder.

2. The powers delegated are normal and not of an exceptional character.

Dated the 5th March, 1997.

DR. SHANTABEN CHAVDA,

M. L. A.

### FINANCIAL MEMORANDUM

The provisions of clause 4 and 5 of the Bill would involve expenditure from the Consolidated Fund of the State. The estimated expenditure will be of about 5 lakhs rupees every year and it would be recurring in nature.

Dated the 5th March, 1997

DR. SHANTABEN CHAVDA,

M.L.A."

Gandhinagar,

Dated the 20th March, 1997.

V. H. DAVE,

Secretary,

Gujarat Legislative Assembly.



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 may be filed as a Separate Compilation.

**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 20th March, 1997 by Shri Dr. SHANTABEN CHAVDA M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

" Gujarat Bill No. 31 of 1997.

**THE GUJARAT AGRICULTURAL LABOUR WAGE  
 SUBSIDY BILL, 1997.**

**A BILL**

*to provide for the payment of wage subsidy to the Agricultural labourers who do not get the minimum wage in the State of Gujarat and for matters connected therewith.*

It is hereby enacted in the Forty-eighth year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Agricultural Labour Wage Subsidy Act, 1997.

Short title,  
 extent and  
 commence-  
 ment.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.



## Definitions.

2. In this Act, unless the context otherwise requires,—

(1) "*Board*" means the *Wage Subsidy Board*, constituted under Section.

(2) "*minimum wage*" means the minimum wage prescribed by the State Government for the agricultural labourers under the Minimum Wages Act, 1948.

## Constitution of Wage Subsidy Board.

3. (1) There shall be constituted a Wage Subsidy Board in each district of the State of Gujarat.

(2) The Board shall consist of a Chairman and such other members as may be appointed by the State Government.

(3) The majority of the members shall consist of the M.L.A.s. and non-officials.

(4) The Chairman shall be a representative of agricultural labourers or the registered trade union of the agricultural labourers.

(5) The term and conditions of office of the Chairman and members of the Board shall be such as may be prescribed.

## Appointment of officers and servants of the Board.

4. The officers and servants of the Board shall be appointed by the State Government and the conditions of service thereof shall be such as may be prescribed.

## No Disqualification in certain cases.

5. No person shall be disqualified for being chosen as, or for being a member of the Legislative Assembly of the State by reason only of the fact that he is a Chairman or member of the Board.

## Functions of the Board.

6. The functions of the Board shall be—

(a) to subsidise the balance of minimum wage to the agricultural labourers where it is not paid at the full rate by the employer;

(b) to recommend to the State Government for recovery of the subsidised amount from the employer who has deliberately and mischievously not paid the minimum wage despite his capacity to do so;

(c) to recommend to the State Government the payment of wage subsidy from the Government treasury in *bona fide* cases of inability of the employer;

(d) to discharge such other functions as may be prescribed.

## Payment of subsidy.

7. The Board shall pay the amount of subsidy to the agricultural labourers every week through Talati.

8. The State Government shall put at the disposal of the Board such amount every year as may be required by the Board for payment of subsidy to the agricultural labourers and for the office expenses. Fund.

9. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purpose of this Act. Power to make rules.

(2) All rules made under this Act shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the Legislature, or to such modifications as the Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any rescission or modifications so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

#### STATEMENT OF OBJECTS AND REASONS

Most of the agricultural labourers in the State and about 90% in South Gujarat are not paid the minimum wage. The rich peasants and the kulaks who produce crops worth lacs of rupees and who take advantage of the subsidised inputs like fertilisers, insecticides, power, irrigation, seeds, tractors, etc., resist to pay the minimum wage. In such cases, the balance shall be paid in the first instance by the State Government and should be recovered thereafter the employer. But in genuine cases if it is not possible for the employer to pay the minimum wage then it is the bounded duty of the State Government to provide subsidy. It is a known fact that about Rs. 2,000 crores are given by way of subsidy in fertilisers to the peasants in the country. So equally the agricultural labourers who toil on the soil and produce grain for the people cannot be allowed to strave, and here is the role of the State to feed them who feed the country.

Dated the 5th March, 1997.

DR. SHANTABEN CHAVDA,  
M.L.A.

#### FINANCIAL MEMORANDUM

For establishment of Wage Subsidy Board and appointment of officers thereof and for payment of subsidy substantial amount will be required. It is estimated that the bill would involve annual expenditure of Rs. 10 crores from the Consolidated fund of the State.

Dated the 5th March, 1997.

DR. SHANTABEN CHAVDA,  
M.L.A.

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

Sub-clause (2) of clause 3 empowers the State Government to appoint the requisite number of members of the Board in each district. Sub-clause (5) empowers the State Government to prescribe term and conditions of office of the Chairman and members of the Board.

Clause 4 empowers the State Government to appoint the officers and servants and to prescribe conditions of their services.

Clause 6 (d) empowers the State Government to prescribe other functions of the Board.

• Clause 9(1) empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers is necessary and is of normal character.

Dated the 5th March, 1997.

DR. SHANTABEN CHAVDA,

M.L.A.

Gandhinagar,  
Dated the 20th March, 1997.

V. H. DAVE,  
Secretary,  
Gujarat Legislative Assembly.





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## EXTRAORDINARY

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### PART V

#### Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 20th March, 1997 by Shri Mahendra Mashru, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

#### "GUJARAT BILL NO. 32 OF 1997.

#### THE GUJARAT LEGISLATIVE ASSEMBLY MEMBERS' PENSION (REPEAL) BILL, 1997.

#### A BILL

*to repeal the Gujarat Legislative Assembly Members' Pension Act, 1984.*

It is hereby enacted in the Forty-eighth year of the Republic of India as follows:

Short title  
and Commencement.

1. (1) This Act may be called the Gujarat Legislative Assembly Members' Pension (Repeal) Act, 1997.

(2) This Act shall be deemed to have come into force on the 8th August, 1989, i. e. the date on which the Gujarat Act No. 18 of 1989 has come into force.

Repeal of  
Guj. 18 of  
1989.

2. The Gujarat Legislative Assembly Members' Pension Act, 1984 (Gujarat Act No. 18 of 1989) is hereby repealed:

32-1

## STATEMENT OF OBJECTS AND REASONS

The Pension Act provides for giving pension to all Members of the Gujarat Legislative Assembly who have served as a Member for one or more terms. It does not make any exception and all Members are entitled to receive the pension irrespective of their financial condition. Members are joining public services on their own. Nobody is compelling them to join the public service and contest the election. Hence this bill.

Gandhinagar,  
Dated 5th March, 1997,

MAHENDRA MASHRU,  
M.L.A."

Gandhinagar,  
Dated the 20th March, 1997,

V. H. DAVE,  
Secretary,  
Gujarat Legislative Assembly.



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Separate paging is given to this Part in order that it  
 may be filed as a separate compilation.

**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 20th March, 1997. by Shri Mahendra Mashru M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

**" GUJARAT BILL NO. 33 OF 1997.**

**THE GUJARAT LEGISLATIVE ASSEMBLY MEMBERS' SALARIES AND  
 ALLOWANCES (REPEAL) BILL, 1997.**

**A BILL**

*to repeal the Gujarat Legislative Assembly Members' Salaries and Allowances Act, 1960.*

It is hereby enacted in the Forty-eight year of the Republic of India as follows:—

Short title  
and comm-  
encement

1. (1) This Act may be called the Gujarat Legislative Assembly Members' Salaries and Allowances (Repeal) Act, 1997.

(2) It shall be deemed to have come into force on the 12th March, 1995 i.e. the date on which the Ninth Gujarat Legislative Assembly was constituted.

Repeal of  
Guj.-II of  
1960.

2. The Gujarat Legislative Assembly Members' Salaries and Allowances Act, 1960 is hereby repealed.

Guj.  
II  
of  
1960.



## STATEMENT OF OBJECTS AND REASONS

The Gujarat Legislative Assembly Members' Salaries and Allowances Act, 1960 and the Rules made there under provide for payment of salaries and various allowances to the Members of the Gujarat Legislative Assembly. It does not make any exception and all the Members are entitled to receive the salaries and allowances irrespective of their financial position in the society. Members are joining public services on their own. Nobody is compelling them to join the public service and contest the election. Therefore, it is felt necessary to repeal the act providing for salaries and allowances to the Members and save an estimated annual Expenditure of over Rs. 1,50,00,000 from the Consolidated Fund of the State. Which is at present being paid to the Members under various provisions of the said Act and the rules made thereunder.

Hence, this bill.

Gandhinagar,

Dated the 11th March, 1997.

MAHENDRA MASHRU,

M. L. A.

Gandhinagar,

Dated the 20th March, 1997.

V. H. DAVE,

Secretary,

Gujarat Legislative Assembly.



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**PART V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 20th March, 1997 by Shri Virjibhai Thumar, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information

**"GUJARAT BILL NO. 34 OF 1997.**

**THE GUJARAT CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 1997.**

*A BILL*

*further to amend the Gujarat Co-operative Societies' Act, 1961*

It is hereby enacted in the Forty-eighth year of the Republic of India, as follows :—

1. (1) This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 1997.

Short title,  
 extent and  
 commen-  
 cement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

Guj.  
 X of  
 1962.

2. In the Gujarat Co-operative Societies Act, 1961, in Section 28, to sub-section (8), the following proviso shall be added namely :

Amend-  
 ment of  
 Section  
 28 of Guj.  
 X of 1962.

"Provided that no individual member of a federal society shall be eligible to become a member on the board of directors and if he happens to be a member as such, he shall cease to be a member as such at once."

## STATEMENT OF OBJECTS AND REASONS

Section 28 of the Gujarat Co-operative Societies Act, 1961 provides for voting powers of members of the Society. Sub-section (8) of this section provides that the voting rights of individual members of a federal society shall be regulated by the rules and bye-laws of the Society. According to the rules and bye-laws of most of the societies the individual members are elected on the Board of Directors and the very aim is defeated. Federal Society is a federation of Societies. Its representation is quite sufficient. An individual member of a federal society should not become a director. This Bill therefore, seeks to amend the Gujarat Co-operative Societies Act, 1961, so that no individual member of a federal society should be elected as a member on the board of directors and if he happens to be as such he shall cease to be member at once.

Hence this bill.

VIRJIBHAI THUMAR,  
M.L.A."

Gandhinagar.

Dated the 11th march, 1997.

Gandhinagar.

Dated the 20th March, 1997.

V. H. DAVE,  
Secretary,  
Gujarat Legislative Assembly.